



Montana Legislative History

Chapter: 385 Session L: 1989

Bill Number: 325 Senate

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
State Administration

Hearing Date(s):
March 15, 1989

Senate

Committee: State Administration

Hearing Date(s):
February 10, 1989
February 13, 1989 (EA)

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Compiler Notes

Compiled by: sg

Date: 2/13/2024

Notes:

(b) corrective action costs, damages, and penalties recovered under section 9003 of the federal Resource Conservation and Recovery Act of 1976, as amended.

(2) Appropriations may be made from the underground storage tank account for the following purposes only:

(a) state and local government costs of implementing the underground storage tank leak prevention program; or

(b) state and local government costs relating to the investigation of leaking underground storage tanks.

Section 11. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 12. Codification instruction. [Section 10] is intended to be codified as an integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to [section 10].

Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 15. Effective date. [This act] is effective on passage and approval.

Approved March 30, 1989.

CHAPTER NO. 385

[SB 325]

AN ACT TO ALLOW MEMBERS OF THE MONTANA ARTS COUNCIL TO RECEIVE COMPENSATION FOR SERVICES AND TRAVEL EXPENSES; AND AMENDING SECTIONS 22-2-102 AND 22-2-103, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 22-2-102, MCA, is amended to read:

"22-2-102. Membership of council — appointment. The Montana arts council consists of 15 members appointed by the governor, by and with the consent of the senate. Insofar as possible, the governor shall appoint members from the various geographical areas of the state who have a keen

interest in one or more of the arts and a willingness to devote time and effort in the public interest."

Section 2. Section 22-2-103, MCA, is amended to read:

"22-2-103. Council membership — tenure — compensation. The term of office of each member *is* 5 years. The governor shall designate a chairman and a vice-chairman from the members of the council to serve *in those capacities* at the pleasure of the governor. The chairman *is* the chief executive officer of the council. Each vacancy *must* be filled for the balance of the unexpired term in the same manner as the original appointment. The members of the council *must be compensated and receive travel expenses as provided for in 2-15-124.*"

Approved March 30, 1989.

CHAPTER NO. 386

[SB 371]

AN ACT TO GENERALLY REVISE THE MONTANA HAZARDOUS WASTE ACT; PROVIDING FOR OFF-SITE CORRECTIVE ACTION; AUGMENTING INVESTIGATIVE AND ENFORCEMENT AUTHORITY; INCREASING CRIMINAL PENALTIES; CONFORMING THE ACT TO CERTAIN OF THE 1984 AMENDMENTS TO THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT; AMENDING SECTIONS 75-10-402, 75-10-404, 75-10-406, 75-10-411, 75-10-413, 75-10-415, 75-10-417, AND 75-10-418, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-10-402, MCA, is amended to read:

"75-10-402. Findings and purpose. (1) The legislature finds that the safe and proper management of hazardous wastes, the permitting of hazardous waste facilities, and the siting of facilities *are matters for state-wide regulation and* are environmental issues that should properly be addressed and controlled by the state rather than by the federal government.

(2) It is the purpose of this part and it is the policy of this state to protect the public health and safety, the health of living organisms, and the environment from the effects of the improper, inadequate, or unsound management of hazardous wastes; to establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous wastes; to assure the safe and adequate management of hazardous wastes within this state; and to authorize the department to adopt, administer, and enforce a hazardous waste program pursuant to the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 - 6987), as amended."

Section 2. Section 75-10-404, MCA, is amended to read:

HOUSE BILL NO. 325

INTRODUCED BY MARKS, COBB, KEATING

IN THE HOUSE

JANUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 21, 1989	FIRST READING.
FEBRUARY 8, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 9, 1989	PRINTING REPORT.
FEBRUARY 10, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 13, 1989	SECOND READING, DO PASS. ON MOTION TAKEN FROM ENGROSSING AND REREFERRED TO COMMITTEE ON APPROPRIATIONS.
MARCH 14, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 15, 1989	PRINTING REPORT.
MARCH 17, 1989	SECOND READING, DO PASS.
MARCH 18, 1989	ENGROSSING REPORT.
MARCH 20, 1989	THIRD READING, PASSED. AYES, 96; NOES, 0. TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON RULES. FIRST READING.
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APRIL 6, 1989

ON MOTION, REREFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

IN THE HOUSE

APRIL 10, 1989

ON MOTION, RULES SUSPENDED TO ALLOW
TRANSMITTAL AFTER 83RD DAY.

IN THE SENATE

APRIL 10, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 11, 1989

PASS CONSIDERATION.

APRIL 12, 1989

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 13, 1989

ON MOTION, PASS CONSIDERATION UNTIL
THE 85TH LEGISLATIVE DAY.

APRIL 15, 1989

ON MOTION, BILL TAKEN FROM THIRD
READING AND PLACED ON SECOND READING
ON THE 86TH LEGISLATIVE DAY.

APRIL 17, 1989

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 19, 1989

THIRD READING, CONCURRED IN.
AYES, 39; NOES, 11.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 20, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Sen. Bill NO. 325*
 2 INTRODUCED BY *Yellowtail*
 3 *Buckner Russell*
 4 *Connelly*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW MEMBERS OF THE
 6 MONTANA ARTS COUNCIL TO RECEIVE COMPENSATION FOR SERVICES
 7 AND TRAVEL EXPENSES; AND AMENDING SECTIONS 22-2-102 AND
 8 22-2-103, MCA."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 22-2-102, MCA, is amended to read:

11 "22-2-102. Membership of council -- appointment. The
 12 Montana arts council ~~shall-consist~~ consists of 15 members
 13 appointed by the governor, by and with the consent of the
 14 senate. Insofar as possible, the governor shall appoint
 15 members from the various geographical areas of the state who
 16 have a keen interest in one or more of the arts and a
 17 willingness to devote time and effort in the public interest
 18 without-compensation."

19 **Section 2.** Section 22-2-103, MCA, is amended to read:

20 "22-2-103. Council membership -- tenure --
 21 compensation. The term of office of each member ~~shall-be~~ is
 22 5 years;--provided;--however;--that--of--the--members--first
 23 appointed;--five--shall-be--appointed--for--terms--of--1--year;--five
 24 for--terms--of--3--years;--and--five--for--terms--of--5--years. The
 25 governor shall designate a chairman and a vice-chairman from

1 the members of the council to serve ~~as--such~~ in those
 2 capacities at the pleasure of the governor. The chairman
 3 ~~shall-be~~ is the chief executive officer of the council. Each
 4 vacancy ~~shall~~ must be filled for the balance of the
 5 unexpired term in the same manner as the original
 6 appointment. The members of the council ~~shall-not-receive~~
 7 ~~any-compensation-for-their-services-but-shall-be--reimbursed~~
 8 ~~for--travel-expenses;~~ must be compensated and receive travel
 9 expenses as provided for in ~~2-18-501--through--2-18-503;~~
 10 ~~incurred--in--the--performance-of-their-duties-as-members-of~~
 11 ~~the-council~~ 2-15-124."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB325, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

SB325 is an Act to allow members of the Montana Arts Council to receive compensation for services and travel expenses; and amending Sections 22-2-102 and 22-2-103, MCA.

ASSUMPTIONS:

The Council has 15 members and meets four times per year. Each meeting lasts 2 days. The daily rate is \$50 per day as provided in 2-15-204, MCA.

FISCAL IMPACT:

	Current	FY90	Current	FY91
	Law	Proposed	Law	Proposed
Expenditures:		Law		Law
Operating Expenses	\$ -0-	\$6,000	\$ -0-	\$6,000
Revenue:				
General Fund	-0-	3,000	-0-	3,000
Federal & Private Special Revenue	-0-	3,000	-0-	3,000

Ray Shackelford 2/10/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Wm Yellowtail 2/10/89
BILL YELLOWTAIL, PRIMARY SPONSOR DATE

Fiscal Note for SB325, as introduced

SB 325

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 *Senate* BILL NO. *325*
2 INTRODUCED BY *Yellowtail*
3 *Buckner Russell*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW MEMBERS OF THE
5 MONTANA ARTS COUNCIL TO RECEIVE COMPENSATION FOR SERVICES
6 AND TRAVEL EXPENSES; AND AMENDING SECTIONS 22-2-102 AND
7 22-2-103, MCA."
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12 Montana arts council ~~shall consist~~ consists of 15 members
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14 senate. Insofar as possible, the governor shall appoint
15 members from the various geographical areas of the state who
16 have a keen interest in one or more of the arts and a
17 willingness to devote time and effort in the public interest
18 without compensation."

19 **Section 2.** Section 22-2-103, MCA, is amended to read:

20 "22-2-103. Council membership -- tenure --
21 compensation. The term of office of each member ~~shall be~~ is
22 5 years; ~~provided, however, that of the members first~~
23 ~~appointed, five shall be appointed for terms of 1 year, five~~
24 ~~for terms of 3 years, and five for terms of 5 years.~~ The
25 governor shall designate a chairman and a vice-chairman from

1 the members of the council to serve ~~as--such in those~~
2 ~~capacities~~ at the pleasure of the governor. The chairman
3 ~~shall be~~ is the chief executive officer of the council. Each
4 vacancy ~~shall~~ must be filled for the balance of the
5 unexpired term in the same manner as the original
6 appointment. The members of the council ~~shall not receive~~
7 ~~any compensation for their services but shall be reimbursed~~
8 ~~for travel expenses, must be compensated and receive travel~~
9 ~~expenses~~ as provided for in ~~2-18-501--through--2-18-503,~~
10 ~~incurred--in--the--performance--of--their--duties--as--members--of~~
11 ~~the council~~ 2-15-124."

-End-

1 *Senate* BILL NO. *325*
 2 INTRODUCED BY *Hellmuth Boylan*
 3 *Backus Thum*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW MEMBERS OF THE
 5 MONTANA ARTS COUNCIL TO RECEIVE COMPENSATION FOR SERVICES
 6 AND TRAVEL EXPENSES; AND AMENDING SECTIONS 22-2-102 AND
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 17 willingness to devote time and effort in the public interest
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 21 compensation. The term of office of each member ~~shall be~~ is
 22 5 years; ~~provided, however, that of the members first~~
 23 ~~appointed, five shall be appointed for terms of 1 year, five~~
 24 ~~for terms of 3 years, and five for terms of 5 years.~~ The
 25 governor shall designate a chairman and a vice-chairman from

1 the members of the council to serve ~~as--such in those~~
 2 capacities at the pleasure of the governor. The chairman
 3 ~~shall be~~ is the chief executive officer of the council. Each
 4 vacancy ~~shall~~ must be filled for the balance of the
 5 unexpired term in the same manner as the original
 6 appointment. The members of the council ~~shall not receive~~
 7 ~~any compensation for their services but shall be reimbursed~~
 8 ~~for travel expenses, must be compensated and receive travel~~
 9 ~~expenses as provided for in 2-18-501 through 2-18-503,~~
 10 ~~incurred in the performance of their duties as members of~~
 11 ~~the council~~ 2-15-124."

-End-

SENATE BILL NO. 325

INTRODUCED BY YELLOWTAIL, BOYLAN, STICKNEY,
BACHINI, RUSSELL, CONNELLY

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW MEMBERS OF THE
MONTANA ARTS COUNCIL TO RECEIVE COMPENSATION FOR SERVICES
AND TRAVEL EXPENSES; AND AMENDING SECTIONS 22-2-102 AND
22-2-103, MCA."

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Section 1. Section 22-2-102, MCA, is amended to read:

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appointed by the governor, by and with the consent of the
senate. Insofar as possible, the governor shall appoint
members from the various geographical areas of the state who
have a keen interest in one or more of the arts and a
willingness to devote time and effort in the public interest
without-compensation."

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5 years;--provided;--however;--that--of--the--members-first
appointed;--five-shall-be-appointed-for-terms-of-1-year;--five
for-terms-of-3-years;--and-five-for-terms--of--5--years. The

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the members of the council to serve ~~as--such in those~~
capacities at the pleasure of the governor. The chairman
~~shall-be~~ is the chief executive officer of the council. Each
vacancy ~~shall~~ must be filled for the balance of the
unexpired term in the same manner as the original
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~~any-compensation-for-their-services-but-shall-be--reimbursed~~
~~for--travel-expenses;~~ must be compensated and receive travel
expenses as provided for in ~~2-18-501--through--2-18-503;~~
~~incurred--in--the--performance-of-their-duties-as-members-of~~
~~the-council;~~ 2-15-124."

-End-

SENATE FINAL STATUS

SB 325 INTRODUCED BY YELLOWTAIL, ET AL.
COMPENSATE ARTS COUNCIL FOR SERVICES AND TRAVEL

2/02	INTRODUCED		
2/02	REFERRED TO STATE ADMINISTRATION		
2/04	FISCAL NOTE REQUESTED		
2/10	FISCAL NOTE RECEIVED		
2/10	HEARING		
2/11	FISCAL NOTE PRINTED		
2/13	COMMITTEE REPORT--BILL PASSED		
2/15	2ND READING PASSED	50	0
2/17	3RD READING PASSED	46	4
TRANSMITTED TO HOUSE			
2/21	REFERRED TO STATE ADMINISTRATION		
3/15	HEARING		
3/15	COMMITTEE REPORT--BILL CONCURRED		
3/18	2ND READING CONCURRED	57	31
3/20	3RD READING CONCURRED	58	40
RETURNED TO SENATE			
3/27	SIGNED BY PRESIDENT		
3/27	SIGNED BY SPEAKER		
3/28	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		
CHAPTER NUMBER 385 EFFECTIVE DATE: 10/01/89			

SB 326 INTRODUCED BY YELLOWTAIL
ALLOW REFUND OF GAS TAX ON BULK KEYLOCK OR
CARDTROL PURCHASES

2/02	INTRODUCED		
2/02	REFERRED TO TAXATION		
2/04	FISCAL NOTE REQUESTED		
2/08	HEARING		
2/08	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/09	COMMITTEE REPORT--BILL PASSED		
2/11	2ND READING PASSED	29	12
2/14	3RD READING PASSED	35	12
TRANSMITTED TO HOUSE			
2/21	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
3/13	HEARING		
3/13	COMMITTEE REPORT--BILL CONCURRED		
3/15	2ND READING CONCURRED	69	14
3/16	3RD READING CONCURRED	85	10
RETURNED TO SENATE			
3/22	SIGNED BY PRESIDENT		
3/22	SIGNED BY SPEAKER		
3/23	TRANSMITTED TO GOVERNOR		
3/28	SIGNED BY GOVERNOR		
CHAPTER NUMBER 356 EFFECTIVE DATE: 3/28/89			

SB 327 INTRODUCED BY KEATING, ET AL.
EXEMPT CERTAIN AGENCY ACTIONS FROM REQUIREMENTS OF
MONTANA ENVIRONMENTAL POLICY ACT

2/02 INTRODUCED

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on February 10, 1989, at 10:00 a.m., Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: Senator Esther Bengtson

Members Absent: None

Staff Present: Eddy McClure

HEARING ON SB318

Presentation and Opening Statement by Sponsor:

Senator John Harp recommended that SB318 be placed on the table, and reported the industry that asked him to introduce the bill feels better about the potential raise on the bed tax, and feels they can work around that. He noted that, at some point, they may need an oversight committee to make sure that the money allocated in the last session stays for the purpose it was intended, but the group that asked him to introduce the bill has now requested it be put on the table.

DISPOSITION OF SB 318

Discussion:

Senator Rapp-Svrcek offered a motion that SB318 be tabled.

Recommendation and Vote:

Motion passed by the committee that SB318 be tabled.

SENATE COMMITTEE ON STATE ADMINISTRATION

February 10, 1989

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HEARING ON SB 328

Presentation and Opening Statement by Sponsor:

Senator Harding reported that a mortician in Kalispell asked her to introduce SB328, which is a bill to allow an embalmer to hold practically the same position as a mortician. She noted the reason is that they have trouble getting educated people to come in to do all that needs to be done, and the morticians in Kalispell, Whitefish, Polson and Ronan recommend this bill. Senator Harding then turned the podium over to the proponents to explain the technical aspects of the bill.

List of Testifying Proponents and What Group they Represent:

Lorene Johnson, Mortician, Kalispell
Paul Johnson, Johnson Mortuary, Kalispell

Testimony:

Ms. Johnson testified this bill does not, as Senator Harding stated, open a position of embalmer equal to mortician, but that it does open a position of embalmer to be licensed in the State of Montana. She stated she feels the mortician has worked hard to get the status he has today, and she thinks he needs the education required by the State of Montana as well with the continuing education that is also required.

Ms. Johnson indicated the field is changing a great deal, there is a great deal of turmoil, purchase by conglomerates, etc., and a greater need for the mortician to do more counseling, spending a lot of time with the families. She noted that establishing the position of embalmer is very much like establishing the position of nurse aide, or practical nurse, adding that the nurse aide or practical nurse position does not take away from the RN, and neither should the position of embalmer take away from that of the mortician. Ms. Johnson indicated this bill merely develops that position.

She stated that, having served on the Board of Morticians, she has been contacted by several morticians in the state complaining that they do not have relief, either for R & R, or to attend meetings, etc. She added 5 people have contacted her in the last 18 months who would like to go into the profession, but who can not financially manage to do it, so they go into something else. Ms. Johnson noted that a lot of the people in the field are coming from out of state, and indicated she feels we need to conserve the people in our

SENATE COMMITTEE ON STATE ADMINISTRATION

February 10, 1989

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state, make a position for them, and allow them to work in our state.

Ms. Johnson explained the educational requirements of the Board of Morticians, noting that a funeral director's license did not carry the same educational requirements of a mortician's license, adding that the funeral director's license is no longer in existence. She indicated that, under this bill, a student can go to mortician school for 12 months, take the national board examination, or an equivalent examination given by the state, and be licensed as an embalmer and work in a funeral home. She pointed out that person could not deal with the families, make arrangements, or manage; that he merely does the practical part of the work. Ms. Johnson indicated that, if he is allowed to do that, he will earn more money than if he were a box boy, or a bus boy, or other jobs he may have while going to school. She noted most of these individuals do not have the opportunity to get a job which can afford them the income they need to continue their education, and that most other positions are not open for the hours that they can work, whereas an embalmer's hours can be flexible.

Ms. Johnson indicated the board has already agreed to accept 5 years in lieu of education, as provided for in the bill. She indicated this is currently being accepted for people who come from out of state, who have attended an accepted school of mortuary science, passed the examination, and worked for 5 years. She pointed out these individuals are not guaranteed acceptance, which is at the discretion of the board, but that they have the opportunity to apply.

She noted that a small operator, in a small town, normally has one mortician, or may not have any, depending on the size of the business, and has to rely on neighboring people or call someone in to relieve him. She pointed out that, if he had an employee working for him, he could take the afternoon off, noting the embalmer could make the removal, do the preparation work, and set up a time for the mortician to make the arrangements. She noted this would give the mortician time to attend meetings, go fishing, or whatever.

Ms. Johnson indicated she did not feel this would be an avenue to "hire cheap help", and does not think the integrity of the people in the field would allow that. She added this position would be a supplement, a part-time maintenance man and part-time embalmer, and that it would enhance the mortician because it would give him more time to spend with the families, in research, or in further education.

SENATE COMMITTEE ON STATE ADMINISTRATION

February 10, 1989

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Testimony:

Mr. Johnson suggested that farmers, who are born and raised on a farm, learn farming by doing it. He indicated that he has lived his entire life in a funeral home, and currently still resides there.

Mr. Johnson testified that, in the early 60's, he recalls people coming into the funeral home looking for work, noting that happened about once a week. He indicated that, in the 70's, it became once a month, but now, in the 80's, they have to search for their help, that people no longer walk in the front door. He noted that Montana has the highest, per-capita in the lower 48 states, percentage of people coming out of high school and college, and going directly into the military. He added that Montana has a decreasing population, and asked where this will put us in 1990.

Mr. Johnson encouraged the committee to vote in favor of the bill, indicating it will allow people to stay, work, and prosper in Montana, that it will hopefully be a lifelong venture for them, and that the state and their community will also prosper and benefit.

List of Testifying Opponents and What Group They Represent:

Guy Miser, Chairman, Board of Morticians
Gene Becker, President, Montana Funeral Directors Association
Bob Ross, Board of Morticians
Michael McCollum, Montana Funeral Directors Association
Garry Adams, Montana Funeral Directors Association
Lloyd Linden, Herrmann and Company Funeral Home

Testimony:

Mr. Miser's written testimony is attached as Exhibit 1.
Mr. Becker's written testimony is attached as Exhibit 3.

Testimony:

Mr. Ross asked the consideration of the committee in opposing SB328. He indicated he thinks his colleagues have expressed most of the points he wished to make. Mr. Ross distributed materials to the committee that are attached as Exhibits 4 and 5.

Testimony:

SENATE COMMITTEE ON STATE ADMINISTRATION

February 10, 1989

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Mr. McCollum indicated he is a funeral director and mortician from Sidney, Montana, and that he drove such a considerable distance because he has strong feelings about this bill, and what it could do to the profession. He noted he can understand the problems in the state with keeping young men here, and offering them good jobs, but he thinks we need to look at getting them educated, rather than allowing a job that would be substandard. He indicated that the majority of the funeral homes in the State of Montana are currently embalming 100 or less bodies in a total year, indicating the majority of Montana is rural, that the towns are small.

Mr. McCollum stated this bill will establish a position that would, except for those 100 times during the year, be a maintenance position, that the person would be washing cars, sweeping sidewalks, etc, the rest of the time. He indicated that creating this position is not doing the young men of Montana a favor. Mr. McCollum indicated the need to see to it that these young men have the opportunity, and the resources, to get the education that is required, and that the public and the consumer has demanded of funeral service over the last years. Mr. McCollum strongly recommended that the committee oppose SB328.

Testimony:

Mr. Adams asked the committee to do no pass.

Testimony:

Mr. Linden stated that he objects to SB328 based upon Section 3, item 6, line 18, page 4, the waiver of educational requirements, indicating it states all educational requirements may be waived. He added he thinks that is totally wrong, and would have to base that as his main objection. Mr. Linden indicated there is also the possibility of downgrading their standards to 1963 levels, and he does think they should allow a waiver by the board, even if they are our own people. He stated he would ask the committee to give a do not pass to SB328.

Questions From Committee Members:

- Q. Senator Rasmussen indicated this is a new licensure, and asked if this has gone through the sunrise act.
- A. Chairman Farrell referred the committee to a letter from the Legislative Auditor, attached as Exhibit 7, indicat-

SENATE COMMITTEE ON STATE ADMINISTRATION

February 10, 1989

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ing he asked them to review this bill with regard to the sunrise act.

- Q. Senator Rapp-Svrcek pointed out that the fiscal note indicates there will be one licensed embalmer, asking if this is state-wide.
- A. Senator Harding responded she does not understand what this means, indicating they may not have understood the bill.
- Q. Senator Rapp-Svrcek indicated there seems to be a lot of concern regarding waiver of the education requirements, noting that other professions have provisions for apprentices, and asked Mr. Becker if this would not allow something similar in the morticians profession, as well.
- A. Mr. Becker responded there is an apprenticeship program, or internship program, which is a step for qualifying for licensure. He added the Montana Board of Morticians currently requires a one-year internship prior to licensure.
- Q. Senator Rapp-Svrcek asked if that is following formal education.
- A. Mr. Becker responded that is correct.
- Q. Senator Rapp-Svrcek then indicated that, in other professions, the apprenticeship position is created through a combination of experience and education, and asked for Mr. Becker's comments.
- A. Mr. Becker responded they would oppose any other licensure than they have at this point.

Ms. Johnson indicated she would like to address this question, and stated the only reason that was put in the bill is because the licensure board will accept licenses from other states with that kind of experience. She indicated she does not think it is fair that this is not offered to the people here, since it is offered to the people from California, Wyoming, or wherever.

Mr. Miser indicated the reciprocity situation would be detrimental, and that they would not have reciprocity with other states if they digressed, adding that Montana does not have the same educational requirements they do. Mr. Miser stated that Montana does not have reciprocity

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with California; they are one of the states that does not have reciprocity with Montana, because of our standards.

Ms. Johnson conceded there is no reciprocity with California, but stated that, when she was on the board, the situation did arise whereby the number of years of practice was considered as education.

- Q. Chairman Farrell asked Ms. Johnson if there are reciprocity agreements with other states.
- A. Ms. Johnson responded there are, but that it would depend on the requirements, and that they have to meet Montana requirements.
- Q. Chairman Farrell asked if their educational programs have to meet Montana's requirements.
- A. Ms. Johnson indicated there is a statement "in lieu of education", but it has to be an individual application to the board, just as is stated.
- Q. Senator Vaughn indicated she has received considerable mail on this, and that one of the concerns is that their training would not be adequate for them to handle a lot of the diseases, etc., that they might deal with in the bodies that they handle.
- A. Ms. Johnson responded these people would have exactly the same training that the mortician has, because they would attend 12 months of mortician schooling. She added the 2 years of college is not the specialized training, that they can take anything they wish in college. Ms. Johnson noted they would not have their college education when they are licensed as an embalmer, that they would not be dealing with the people directly, and would only be doing the practical work.
- Q. Senator Vaughn indicated another concern was what training they would have in dealing with the people. She noted that, if the mortician was gone and this person was called to pick up the body, this person is the first contact the people would have with anyone from that funeral home, which certainly is contact with the family. Senator Vaughn added she is stating the concerns she is hearing that they would not have adequate training to be capable of handling this.

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- A. Ms. Johnson responded they should not be counseling at that point, adding that many people do removals that are not licensed morticians, and who have had no training whatsoever.
- Q. Senator Rasmussen asked Ms. Johnson if the only reason she supports this bill is because there are not enough people, and does she agree that 100 bodies per year is enough to keep them busy.
- A. Ms. Johnson responded she does not know, that this is an individual thing. She stated that she sees this as the situation in Montana, and that these problems have been presented to her. She added that she feels the field of mortuary science is becoming much more technical, that the mortician does need that training, he would not be degraded, and that he should be supplemented, and given all the time possible to do that kind of thing. Ms. Johnson indicated that, for example, in the field of medicine, it has become necessary to become more technical, that the public demands to be given the proper information, and it takes the proper person to talk with them. She noted this is where a well-educated mortician is needed. Ms. Johnson added the embalmer does not need to do that, but there is no reason why a young person who has had mortuary training, or knowledge from college for one year, could not be doing the practical part, while the properly licensed person deals with the people. Ms. Johnson pointed out the costs of a college education, noting that some of the students are also married with families, and indicated a job as embalmer could help defray some of these expenses.
- Q. Senator Rapp-Svrcek asked if any other states currently have licensed embalmers, or anything similar to what is envisioned here.
- A. Mr. Miser responded that Kansas does, and one or two other states also do. It was also noted that Colorado does, too.

Closing by Sponsor:

Senator Harding indicated she thinks this was a good hearing. She further indicated that there is a change in the professions, that this Legislature has seen a lot of turf battles, and she believes this is a viable part of our society today. She added she thinks this is a way for people to learn a profession, that they will not do the entire technical part

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of it because they have not had the education, but they can do the practical part and still make a living for their families. Senator Harding noted that this bill opens another position, such as an aide to the mortician, and that is also helps the mortuary be an integral part in helping people progress in their education toward a good profession. She noted she does not think it has anything to do with tearing down the mortuary, referring to page 4, line 18, which states the board may waive the education requirements, that it is at the discretion of the board. She indicated the board is only as good as the people who are on it, and they are the people that are in charge. Senator Harding stated that she thinks this is a reasonable bill, she would appreciate the committee looking at it, noting these people will have to be advised regarding the sunrise law.

Chairman Farrell announced the hearing on SB328 as closed.

HEARING ON SB 325

Presentation and Opening Statement by Sponsor:

Senator Bill Yellowtail testified that SB325 is an issue of fairness and compensation for services rendered. He reported that, for some time, the Montana Arts Council has served without compensation. He noted the council members receive travel expenses for their travel to meetings but, by law, have been denied the opportunity to receive compensation. He indicated that most, if not all, quasi-judicial boards around the state are entitled to compensation, and he would like to see the Arts Council receive fair treatment. Senator Yellowtail pointed out that, on page 2, lines 6 through 8, the original law expressly prohibited compensation, but that all the other boards receive compensation, under 2-15-124, sub (7), which is the compensation statute, of \$50 per day, while the boards are in meetings.

Senator Yellowtail stated the other changes in the bill are only clean-up language.

List of Testifying Proponents and What Group they Represent:

David Nelson, Executive Director, Montana Arts Council
Gloria Hermanson, Montana Cultural Advocacy

Testimony:

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Mr. Nelson indicated that, when the legislation was first drafted in 1968, it was modeled after boards such as the historical society and the library commission, who have since come before the Legislature for the same equal treatment. He noted that, as far as they know, they are the last remaining board not to be compensated. Mr. Nelson stated things have changed since 1968 and, since they want a good percentage of their council made up of artists, who are working people, that when they are away from their studios, it is a loss to them. He further indicated they have to deal with child care, etc., adding this bill is just clean-up, and fair treatment. Mr. Nelson noted that, fiscally, it would be about \$6,000 for the biennium, half of which would be covered by federal funds. He indicated that he did not know if this would be included in their appropriation, since they have to have the authority first. Mr. Nelson noted he thinks it is important that the council be treated like every other board.

Testimony:

Ms. Hermanson reported the Montana Cultural Advocacy stands in support of SB325.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Rasmussen asked Mr. Nelson if there are dues to any of the members that could generate these funds.
- A. Mr. Nelson responded no, that this is a state agency and their services are in the area of support for the arts. He added that the organizations they serve have memberships, but the council itself is like every other state agency.
- Q. Senator Anderson asked how often the council meets.
- A. Mr. Nelson responded they meet 4 times a year, adding this is 15 people appointed by the Governor.
- Q. Senator Anderson indicated he understands the council does receive travel expenses, and asked if they are merely asking to be paid for the time they serve at the board meetings.
- A. Mr. Nelson responded yes.

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- Q. Senator Harding asked if this would be an additional line-item to their budget, or is their budget going to be able to take care of it.
- A. Mr. Nelson responded they will re-visit the committee about the issue but, if the committee is not able to act, the council understands that there may be a two-year period where they may not be able to find the appropriation and will have to "eat it", noting they are prepared to do that for one biennium, if that situation arises.
- Q. Senator Harding asked how much money are they talking about.
- A. Mr. Nelson responded it is a total of \$6,000; \$3,000 general fund, and \$3,000 federal.
- Q. Senator Harding asked if this is per year.
- A. Mr. Nelson responded this is biennium.
- Q. Chairman Farrell indicated that, when this council was formed, it was a council to make people aware of the arts, and asked Mr. Nelson if he was correct in that everybody was volunteering their time to get this information out.
- A. Mr. Nelson responded it was established like every other agency and, at that time, the provision in the law for the other agencies said they would serve without compensation.
- Q. Chairman Farrell asked what other agencies.
- A. Mr. Nelson responded the historical society and the library commission.
- Q. Chairman Farrell asked if they are paid salaries.
- A. Mr. Nelson responded yes.

Closing by Sponsor:

Senator Yellowtail reported the Arts Council is appointed by the Governor, serves under all of the laws and constraints as other quasi-judicial boards and, so, are just like the other boards that already receive compensation, noting this is the last one to come in. He indicated he is not a member of the

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Arts Council, but that he had the privilege of serving in the 70's, and it was one of the most enjoyable boards or committees that he has served on, noting he has served on quite a few. Senator Yellowtail stated that it is a burden for people, the classic "struggling artist" types, to come to the meetings. He noted the travel expenses help but, in general, they lose money, and he thinks this will permit them to not lose money as they serve.

Chairman Farrell announced the hearing on SB325 as closed.

OTHER BUSINESS

Discussion: SB 82

Chairman Farrell indicated that SB82, which was reported out of committee in January, has been referred back to the committee for further discussion. He added that the sponsor, Senator Nathe, has asked the committee to place SB82 on the table.

Senator Harding offered a motion that SB82 be placed on the table.

Recommendation and Vote:

Motion passed by the committee that SB82 be placed on the table.

Discussion: SB 286

Chairman Farrell asked Senator Rapp-Svrcek if the proposed amendments to SB286 are ready.

Senator Rapp-Svrcek responded the amendments are ready, and reported he talked, at length, with Mr. Dodge, the Secretary of State's office, and the staff attorney regarding the first sentence of sub (2), line 19, page 1. He noted that, as written, he thinks it would preclude any constitutional challenge prior to an election, which concerns him a great deal, adding Mr. Dodge saw that concern as well. He indicated the amendment would strike that sentence, making it clear that what is being limited in this bill are technical challenges, and that Mr. Dodge was comfortable with that, as is the chief sponsor of the bill, Senator Beck. Senator Rapp-Svrcek then informed the committee that what happens now is, unless something is blatantly unconstitutional on its face, or under absolutely extraordinary circumstances, the Supreme Court will

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say it may or may not be unconstitutional, but they will not rule on it until after it has been voted on. He indicated that, if this sentence is left in, even under those extraordinary circumstances, such as the example he gave of the white supremacists, the Supreme Court would not rule on that prior to the vote. He noted that, by striking the sentence, the ability of the Court to make a ruling, seeing these extraordinary circumstances, is maintained.

Chairman Farrell asked if it is possible for the Supreme Court to rule that something is blatantly unconstitutional, and still have it placed on the ballot, with this amendment. Ms. McClure responded that she and Senator Rapp-Svrcek discussed this, and that it could happen in unusual circumstances. She referred to subsection (1), which states "An initiative or referendum that qualifies for the ballot in Article 3 or Article 14", which is gathering of petitions, signatures, etc., "shall be submitted to the qualified voters, as provided, unless election is held pursuant to this section." She indicated, if the voters and petitioners have done everything correctly, and have all qualified names and signatures, the Supreme Court could indicate it is unconstitutional, but the statement that it "shall be submitted", could insure that it will still go on the ballot, if it qualifies under all the other procedures.

Senator Rapp-Svrcek asked Ms. McClure what if, on page 2, line 2, after "improperly conducted", something was put in about these extraordinary circumstances, where the Supreme Court makes a ruling that it is unconstitutional on its face. Ms. McClure responded that her concern is that subsection (2) states if it "qualifies", and it does say "shall be submitted". There was discussion between Senator Rapp-Svrcek and Ms. McClure on this issue, and Ms. McClure indicated that Senator Beck's concern was that he does not want the Supreme Court coming out, ahead of time, and biasing it one way or the other; he does not want the public to hear from the Supreme Court. She noted that is why the sentence, under subsection (2) was put in, and pointed out that, if it is taken out, it will revert back to what is being done now.

Chairman Farrell indicated this does not actually refer to the Supreme Court and asked, if the case was heard first in district court, and an opinion was issued which was deferred to the Supreme Court, would this not prejudice the voters. Ms. McClure responded that, under the initiative process, they go directly to the Supreme Court, with a 30 day challenge. She noted it can be challenged for improper signatures, constitutionality, etc. and, by taking out that sentence, the

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process would go back to what we have now, that the Court can step in inside 30 days, which has created havoc. Chairman Farrell indicated the original suit on CI-18 was filed in Butte, at a district court level, it was ruled on, and appealed in the Supreme Court.

Senator Rapp-Svrcek indicated he talked with Mr. Dodge about this issue, that he is comfortable with this, and their primary goal is to not allow a technical flaw to keep something from the ballot. Senator Rapp-Svrcek indicated Mr. Dodge shares his concerns regarding a lack of a challenge on substance of issue, that perhaps these amendments are not thorough enough, but he thinks it needs something like this before it passes. Ms. McClure indicated Mr. Dodge's main concern was technical, which is why the title was changed to insert "technical", and that it will do that. She noted it is possible that, by doing this, there could be a qualified ballot that has been ruled unconstitutional.

Senator Rasmussen asked Senator Rapp-Svrcek if he is comfortable with this. Senator Rapp-Svrcek responded he thinks the issue raised by the Chairman is legitimate, that it will continue to be raised somewhere in the process, and that it will be corrected, noting he is confident of that. He indicated the committee could hold the bill and work with it. Senator Rasmussen indicated he does not think it will be corrected on the floor.

Senator Rapp-Svrcek noted that Mr. Dodge is in agreement with the intent, that perhaps the committee should vote on the amendments, and the bill, and "watch-dog" it in the house, raising the issue there. Ms. McClure indicated, in that time, the committee may come up with a possible solution to deal with "shall be submitted", that something can not be put on the ballot that has been declared unconstitutional. Senator Rasmussen indicated he is not confident of everything working out, that it is important when it goes to the voters. He noted he does not see this bill getting hung up, and there is the opportunity to refine this language, if someone else can bring some thinking to this at this point. Senator Rapp-Svrcek indicated perhaps one of the Judiciary members could. Senator Rasmussen indicated to Chairman Farrell that he does not think we are quite at the crunch state yet and, if we could get this thing fixed up right, it would be better.

Chairman Farrell indicated that, by next Monday, the bills currently in the committee have to be reported out, or they will be caught in the crunch, and there are more bills still to be referred to this committee that must be heard and acted

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on rapidly. He added bills have to be out of committee by the 40th day in order to make it through the process. Senator Rapp-Svrcek indicated he would withdraw the amendments, and stated he would work with Ms. McClure on them.

Discussion: SB 288

Chairman Farrell reported that the Legislative Auditor indicated SB288 appears to fall under Sunrise, that it adds to the duties of an existing licensing board. He reported he talked with the Department of Health, who indicate this does not license; it simply sets standards for these people to maintain before they can work in nursing homes. The Department of Health also states the Board of Nursing already has these programs in place, and the Department of Health has asked for additional money and additional personnel to run the program, if they have to. He noted they are in a neutral position, and that the Board of Nursing can run it now.

Senator Rasmussen indicated that one solution out of the dilemma of sunrise is to kill the bill. Chairman Farrell indicated that it is the Legislative Auditor's opinion to leave it in committee until the Rules Committee acts on licensure, noting the Rules Committee is scheduled to meet on Monday to look at a bill referred by Senator Jacobson. Senator Harding suggested leaving the bill in committee. Senator Rasmussen asked Chairman Farrell if he is suggesting tabling the bill, indicating he does not like the bill, that he would suggest killing the bill, and not worrying about it. Senator Rasmussen then offered a motion that SB288 do not pass. He stated it sounds to him like it would be better left with the Department of Health, which is already geared up to do it, the nursing homes would be more comfortable, and the job would get done, noting he thinks it is probably going as it should go, now, without these changes.

Senator Abrams indicated he received quite a few comments in the mail, and these people would be happy if the bill was killed. Senator Rapp-Svrcek indicated he has nothing to add to that.

Recommendation and Vote:

Motion passed by the committee that SB288 do not pass.

Discussion: SB 336

Chairman Farrell opened discussion regarding SB336. Senator Rasmussen indicated there was a suggested amendment, which

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seems reasonable to him, on page 3, line 15, to take "knowingly or with reckless disregard" out of the bill. Ms. McClure indicated that, according to the information she has, "knowingly and with reckless disregard" has to be in the bill. Senator Harding offered a motion that SB336 do not pass. Senator Rasmussen indicated he believes there is a problem, that a good-faith effort needs to be made to patch things up, and he would like to see the bill pass, perhaps with some amendments. Senator Anderson indicated he thinks there is a need, that there were more bad campaign practices this last election and people were really upset. He noted there should be some limitations so that people who use those tactics would be more careful.

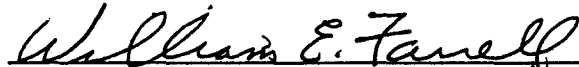
Senator Vaughn noted that she agrees some corrections need to be made, but indicated she does not feel this is being done with this bill. Chairman Farrell indicated that the time frame for hearings would not have helped Senator Thayer's situation.

Recommendation and Vote:

Motion passed by the committee that SB336 do not pass, with Senators Rasmussen, Rapp-Svrcek and Anderson opposed.

ADJOURNMENT

Adjournment At: 11:30 a.m.


WILLIAM E. FARRELL, Chairman

WEF/mhu
SB318.210

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE:

February 10, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON			✓
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 288 (first reading copy -- white), respectfully report that SB 288 do not pass.

DO NOT PASS

Signed: William E. Farrell
William E. Farrell, Chairman

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 336 (first reading copy -- white), respectfully report that SB 336 do not pass.

DO NOT PASS

Signed: William E. Farrell
William E. Farrell, Chairman

W.E.
2/10/89
3:05
p.m.

BOARD OF MORTICIANS
DEPARTMENT OF COMMERCE

1424 9TH AVENUE



(406) 444-5433

STATE OF MONTANA

HELENA, MONTANA 59620-0407

TESTIMONY

S.B. 328

Mr. Chairman, Committee members, my name is Guy Miser. I am the chairman of the Board of Morticians and a licensed mortician from Fort Benton.

The purpose of the Board of Morticians is to protect the the public's health, safety and welfare and to guarantee that those persons working in the field of mortuary science meet professional competency requirements through education and examination.

Montana was a forerunner in establishing higher standards for licensure through continuing education. The trend in the U.S is for higher standards for entering the field of mortuary science. Under the provisions of S.B. 328 which provides for a waiver of the educational requirements would be a step back 50 years.

It would allow future membership of the Board of Morticians to drop all standards of educational requirements opening the way for persons who have not completed mortuary science school, do not have the basics of social skills needed to meet with families during a time of emotional strain and do not have a background in sanitation or health sciences. If a future board granted a waiver it could open litigation against board members for favoritism.

The definition of "embalmer" allows the individual to only do embalming, it does not allow that person to even prepare the the body for burial or any other functions in the funeral home. The Board of Morticians is concerned that a funeral home would not be able to keep an "embalmer" busy 8 hours a day. Is the "embalmer" then going to engage in those things that are not allowed under the "embalmer" license and who is going to police "embalmer's" to make sure that all they are doing is embalming.

The Board of Morticians requests the committee give a DO NOT PASS to SB 328. Thank you.

Mr. Chairman, Committee Members, I am Gene Becker, President of the
Mortnana Funeral Directors Association and a licensed mortician practicing
in Bozeman.

The objectives of this association is to promote and elevate professional
character and education of morticians throughout the state. Also to foster
and maintain among them high professional ideals of public service.

Several years ago, mandatory continuing education of all licensees was
placed into law. We as an association whole-heartedly endorsed this rule.
We feel it is imperative that ongoing education of all morticians be sustained.

The average level of education of all professions has constantly risen
during the past decade. Indeed the average level of education of the client
family we serve has constantly risen during the past decade.

We as professional people in our society must maintain the same level
of education as the client-family we service. We cannot step back 50 years
when no or little education was required of the funeral service provider.
It is for this reason we oppose Senate Bill #328.

I will be happy to answer any questions from the committee.

In the interest of being brief and not taking too much time, would all
other licensed morticians and individual present who oppose this bill please
stand up.

SEN. LE STATE ADMIN.

EXHIBIT NO.

4

DATE

2/10/89

BILL NO.

SB 328

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Gene Becker

DATE:

Feb. 10, 1989

Address:

113 S Willson

Bozeman MT

Phone:

587-3184

Representing whom?

MT Funeral Directors Assoc.

Appearing on which proposal?

SB 328

Do you:

SUPPORT? _____

AMEND? _____

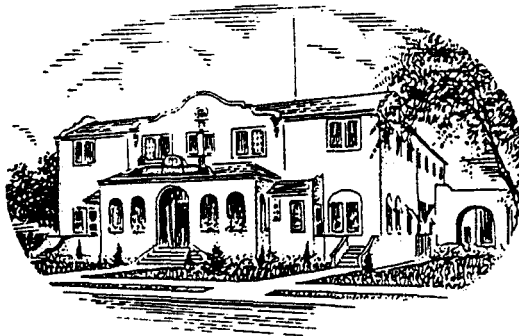
OPPOSE? _____

✓

Comments:

see Exhibit #3

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



Graves Memorial Chapel

Directors: Marty Lawrenz, Everett & Terry Bullis

Feb. 7, 1989

Senator William E. Farrell, Chairman
State Administrative Committee
Helena, Montana 59636

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/10/89

BILL NO. 56328 pzt

Re: Senate Bill # 328

Dear Senator Farrell and Fellow Committee Members;

Please accept the following correspondence as testimony in *OPPISITION* to Senate bill # 328.

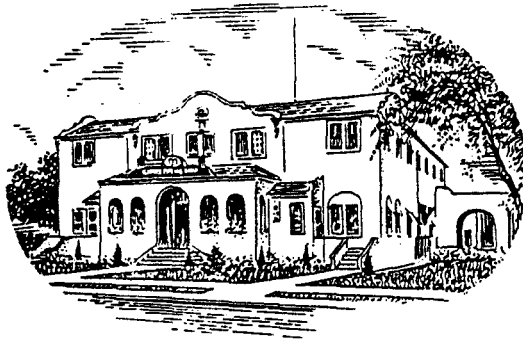
At this time it is not clear just what this bill is proposed to accomplish. The proposed amending of sections 37 19 101,301,302,304,305, and 311,MCA, appears to be contridicting in nature and eludes to the creation of another license. Most disstressing, is giving the Board the authority to waive educational requirements. I believe the reciprocity section of the present law is more germaine. A person applying for a license, must meet the educational requirements, before licensing or reciprocity can even be considered. If this bill is an attempt to structure an additional license within the Montana Funeral Industry, it would be contrary to all previous actions of the Legislature and Board of Morticians.

I feel is does an injustice to the Profesionalism of the Montana Morticians and it's related Funeral Industry. Hopefully you are aware that the Montana Funeral Directors have worked very diligently to incorporate high professional standards within it's structure. Many of us have accepted the tighter controls set by State and Federal Agencies as an agument to professionalism and comsumer protection.

The Board of Morticians and the Montana Funeral Directors has also endeavored to educate the public and it's consumers on what is to be expected of us when called upon to provided services.

The industry has initiated a continuing education program to enable it's members to stay current with industry changes. However, I see in Senate Bill 328, a move the could destroy all that has been accomplished throught the past several years.

Dual licensing was in existance 20 years ago and was done away with, it appears as if this bill would rejunivate Dual licensing as well as regress educational standards at the expense of all. We are professionals with professional education and ethics standards not unlike other professions.



SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/10/89

BILL NO. 56328 pg 2

Graves Memorial Chapel

Directors: Marty Lawrenz, Everett & Terry Bullis

Regression, brought on by passage of this bill would be detrimental to us and the consuming public. Single licensing allows for a more professional and well rounded approach to the needs of the consumer. Whereas Dual licensing allows for discontent, separation of duties and perhaps reduces the ability of the public as consumers, to obtain services from a well educated and trained professionals.

Your consideration of this statement is appreciated.

Marty Lawrenz
Marty Lawrenz

Sec. of the Montana Funeral Director's Association

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 2/10/89

BILL NO. SB328 p21

management
services,
ltd. fullerson
funeral
home

February 9, 1989

Senate Committee on Administration
Montana Senate, 51st Legislature
Helena, Montana

Honorable Ladies and Gentlemen:

This letter of concern is written in regards to LC 1594/01, Senate Bill # 328 that has apparently been introduced for your consideration.

The intent of this bill is very obscure, but the results very detrimental to the public and funeral service.

It ostensibly is to add an EMBALMER LICENSE, but apparently doesn't stop there, as it is restructuring the entire licensure qualifications for all mortician related licenses, and expands the embalmer license to direct funerals. Eliminating Section 3, par 6 from the proposal would still allow the embalmer license. Therefore it must be the actual intention of this bill to eliminate education for all funeral service licenses? What utter absurdity!

The consumer is protected best through licensure with strict educational requirements giving the practitioner the background to understand the needs of the consumer (purchaser). Funeral Service Practice is not just a business transaction! We deal with customs, traditions, different manners of expressing grief and dealing with the reality of death. The consumer is served well with quality funeral service, and this cannot be assured through licensure eliminating all educational requirements.

As Licensed morticians we are also charged with the public health responsibility of knowing what diseases may be contagious and how to protect the public and ourselves from the contraction of those diseases. Where does that informational background get to this person who applies to be an embalmer?

Funeral service is also charged with providing a meaningful service to the consumer (family of deceased), but he only has one time to get it done in a meaningful way for the family. There is no chance to do it over because something was not right!

DATE 2/10/89BILL NO. SB328 p2 2

Many of the Licensed morticians in this state have spent many years in preparatory schooling and then many years of experience and continuing education to offer the best type of funeral service experience for the family involved.

I have five years of formal college training, a BS degree, two years of internship, 30 years of experience, and have just completed another 10 years of continuing education and have been certified as a CERTIFIED FUNERAL SERVICE PRACTITIONER. I am still learning with formal education and now I find this bill has been proposed to eliminate all educational requirements when many of us are participating in a life-long professional career to try and provide adequate service to the clientele we serve. Funeral Service (and embalming) is an ART and SCIENCE and a PROFESSION! Not just a job you can come in off the street and try! It takes committment and training before licensure, continuing throughout the life of the licensee!

I respectfully suggest you kill this "farce of a bill" that is obviously the work of someone that doesn't know of what they talk or write and must be serving some individual, group, business or entity to the detriment of the people of Montana.

There is no law in Montana requiring people to go to a licensed mortician or mortuary, but they still do and pay for the services they receive. If you had the need, would you as individuals, call a funeral service firm that hired people without educational background, to provide an important service for you and your family?

If you were to allow the embalmer license as this bill is written, it would serve very few firms in this state, as most firms need a licensed mortician that can make arrangements and direct services, not just embalm. What firm is looking for some lesser paid help to serve the public in a specialized and technical manner at a time of critical importance to the family? Is this even serving the individual that was awarded that license? Or the firm that employs him? OR MORE IMPORTANTLY, THE PUBLIC BEING SERVED?

Give this bill a decent burial!

Sincerely yours,



G. E. Fulkerson jr. CFSP
Montana Mortician License # 100
President

HERRMANN AND COMPANY

Funeral Home



314 N. RODNEY

HELENA, MONTANA 59601

SENATE STATE ADMIN. 4

EXHIBIT NO. 6

DATE 2/10/89

BILL NO. SB328

FEBRUARY 10, 1989

SENATOR BILL FARRELL CHAIRMAN
STATE ADMINISTRATION

SENATOR AND COMMITTEE MEMBERS:

I OBJECT TO SENATE BILL #328 BASED
UPON THE SECTION # 3 (6) LINE 18 page 4 -
WAVER OF EDUCATION REQUIREMENTS, ALL
EDUCATION REQUIREMENTS CAN BE WAVERED!
ALSO THE POSSIBILITY OF DOWN GRADEING TO
POST 1963 STANDARDS.

I WOULD ASK FOR A DO NOT PASS!

Wm. Lloyd Linden

Wm. Lloyd Linden MORTICIAN

314 N. RODNEY

HELENA, MONTANA

59601

PHONE 442-1234



STATE OF MONTANA
Office of the Legislative Auditor

STATE CAPITOL
HELENA, MONTANA 59620
406/444-3122

SENATE STATE ADMIN.

EXHIBIT NO. 7

DATE 2/10/89

BILL NO. 56328

LEGISLATIVE AUDITOR:
SCOTT A. SEACAT

LEGAL COUNSEL:
JOHN W. NORTHEY

DEPUTY LEGISLATIVE AUDITORS:

MARY BRYSON
Operations and EDP Audit

JAMES GILLET
Financial-Compliance Audit

JIM PELLEGRINI
Performance Audit

DATE: February 8, 1989

TO: Senator Bill Farrell

FROM: John W. Northey

RE: SB 328 as subject to Sunrise Law.

SB 328 is an act providing for the licensing of embalmers. Section 3 of the bill specifically adds the practice of embalming as subject to licensure by the Board of Morticians. Section 2-8-203, MCA, the Sunrise Law, states in part:

"(1) The committee shall review and assess the merits of any proposal to:

...

(c) add to the duties of an existing licensing board responsibility for licensing another occupation or profession."

As SB 328 adds the licensing of embalmers to the duties of the existing Board of Morticians, the bill is subject to the requirements of the Sunrise Law.

STATE ADMINISTRATION COMMITTEE

STATE ADMINISTRATIVE

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on February 13, 1989, at 10:00 a.m., Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure

HEARING ON SB 356

Presentation and Opening Statement by Sponsor:

Senator Joe Mazurek suggested that the committee hear both SB356 and SJR8 together. He noted they are very similar, deal with the same subject, and he believes the committee will hear the same witnesses on both bills. Senator Mazurek indicated he would appreciate it.

Chairman Farrell indicated that would be allowed.

Senator Mazurek reported that SB356 is a bill which was merged with a request that Representative Quilici from Butte had, and does two things. He then indicated that the committee is probably familiar with the First Special Services Force that was formed in Helena at Ft. Harrison prior to WWII, which was a force made up of United States and Canadian soldiers, and became the forerunner of our current special forces. He noted many of the Canadian citizens, who became a part of that First Special Services Force, settled in Helena after the war. Senator Mazurek interjected that the success and exploits of the First Special Services Force during WWII are well-known. Senator Mazurek named some of those individuals, who are successful local businessmen and active in community projects and organizations.

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He stated the reason he had brought this bill before the committee is that these individuals came from Canada, wore U.S. uniforms, served along side other members of the U.S. Armed Services but, despite the fact that those people came back to Montana and settled here, they are not considered veterans, under our state definition of veteran, because they were Canadian citizens at the time they served in WWII with the First Special Services Force. Senator Mazurek reported this bill proposes to expand the definition of veteran to include individuals who served with the First Special Services Force between December 7, 1941 and August 15, 1945. He added that, indicating this is the combination with Representative Quilici's bill, this bill also expands the definition further to provide that members of the American Merchant Marine and ocean going service, during that same period, would also be considered veterans.

Senator Mazurek indicated these were people who served admirably, came down from Canada, trained here, served along side other members of the Armed Services, and yet are denied veteran status because they were Canadians at the time they entered the First Special Services Force. He noted it is his understanding that this will have no fiscal impact, that it is largely a matter of recognition for these veterans.

Senator Mazurek then reported that SJR8 is a Senator Joint Resolution urging Congress to afford this same benefit to the members of the First Special Service Force on the federal level, because the federal definition of veteran is narrow, and does not include members of the First Special Service Force.

Chairman Farrell reminded those wishing to testify that he will accept testimony on both SB356 and SJR8, at the same time.

List of Testifying Proponents and What Group they Represent:

Hal Manson, American Legion of Montana
Robert Vandervere, representing himself
Herb Goodwin, representing himself
Bob Durkee, Chairman, Veterans Affairs Division, State of Montana
James H. Rehbein, Sergeant Commander, Disabled American Veterans of the State of Montana
Rich Brown

Testimony:

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Mr. Manson testified that those who live in this part of Montana, Helena and the surrounding area, have gotten to know a great number of these men who served with the First Special Services Force that came from Canada. He indicated these people, including the ones Senator Mazurek mentioned and many others, not only came here after the war, they came here and became American citizens. He added they have been in business, are very good citizens, noting one individual who is in attendance today served in the National Guard and the Army Reserve, quite honorably, following WWII. He noted this individual became an American citizen, and most of these people have been very good citizens. Mr. Manson stated it has been his privilege, over the period since the end of WWII, to know many of these people. He indicated he can not think of one that he did not consider a very first class person, and a very good citizen. He indicated, if the committee is aware of the history of the First Special Service Force, these people probably saw as much combat, maybe more, than any unit in the United States Armed Forces, during WWII, adding their losses were great, and those that have come back here to be citizens, and join in our community, he believes, have every entitlement to the benefits that this bill would give, as the people that were born and reared in this country.

Testimony:

Mr. VanderVere reported he served in the Merchant Marines in WWII between these dates. He indicated he was on the Atlantic, the Caribbean, South Pacific, and the Coral Sea, in combat areas. He noted that, after 47 years, the federal government finally recognized that some of the people who served during that time should have veteran status. Mr. VanderVere reported he believes these bills are good bills, and indicated he thinks the committee should pass these bills, and hopes they do.

Testimony:

Mr. Goodwin reported he is one of the individuals just referred to, a Canadian in the First Special Service Force, and that he came to Helena in July of 1942. He indicated he came through unscathed, that he was not wounded, and lost no combat time. He added that, after getting his citizenship, he was commissioned in the National Guard in the Army Reserve, served approximately 25 years in that service, and is a retiree from the U. S. Army.

Testimony:

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Mr. Durkee testified that, in their work as a board, in handling veterans' claims against the VA, they often encounter the problem of a U. S. citizen who was formerly a Canadian, and a member of the First Special Service Force. He indicated they are proud of that First Special Service Force, particularly in Helena, and that, in sessions prior to this, they were often recognized by resolution and, during one period, the Governor declared a day in honor of the First Special Service Force. Mr. Durkee stated they feel this is a fair bill, noting the United States government has offered this protection to veterans from Norway and Czechoslovakia, who served U.S. military outfits, and went back to their native countries, and they think that, particularly in the case of the Canadians who now reside as U.S. citizens in Helena, certainly should be recognized as veterans under the state law, and under the resolution which urges Congress to recognize them from a federal level, so that they can earn and appreciate the benefits that the government of the United States grants to veterans. He noted this pertains particularly to hospitalization, that this would also qualify them for burial in the state cemetery, and they urge the committee to give favorable consideration. Mr. Durkee thanked Senator Mazurek for presenting the bill to the committee, noting that the committee will find, if they inquire of their neighbors and friends in Helena, that these Canadians, who are now U.S. citizens, are very fine people.

Mr. Durkee added that there is an association of former members of the First Special Service Force, and that they reside all over the world, noting there is a unit in France.

Testimony:

Mr. Rehbein indicated that, after Mr. Durkee's presentation, he did not know if he had much more to say. He then introduced their Legislative Chairman for the Disabled American Veterans, as their lobbyist, John DenHerder, who is from East Helena, and does a good job for them.

Mr. Rehbein stated, on behalf of the Disabled American Veterans, that they would favor this bill. He noted they have a national service officer, hired by the national organization, who works at Ft. Harrison, and they often have people, who have belonged to the Special Services, who need their benefits taken care of. He indicated they would like to be able to help them in some capacity, if approved by the State of Montana, adding that, at the national level, they worked very hard to get the Merchant Marine included in benefits that

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are equitable to other veterans, and they would approve of the Special Forces, as well.

Testimony:

Mr. Brown indicated his chairman of the board, who is here today, was a member of the First Special Service Force. He noted it is essential that we treat this group as a unit, and that this unit receive the benefits that they have earned, adding that they ask for the committee's support for both of these measures.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked if there is a number.
- A. Senator Mazurek responded there are approximately 35 on the First Special Service Force, and 150 in Merchant Marine. He noted that this is an estimate, based on how many Merchant Marine members there nation-wide, extrapolating to a percentage based on the population of Montana. Senator Mazurek stressed the figure of 150 is purely an estimate.
- Q. Senator Vaughn asked if this is recognizing only those that are here in Montana.
- A. Senator Mazurek responded SB356 would grant only status for Montana purposes to those here in Montana. He added that SJR8 urges Congress to give the same status for federal veteran purposes. He noted it is his understanding that the only benefit that a Canadian First Special Forces member would be eligible for would be treatment for any service-related disability.

Closing by Sponsor:

Senator Mazurek thanked the committee for a nice hearing, and thanked the witnesses for appearing to testify.

Chairman Farrell announced the hearing on SJR8 and SB356 as closed.

DISPOSITION OF SB356 and SJR8

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Discussion:

Senator Harding offered a motion that both SB356 and SJR8 do pass.

Recommendation and Vote:

Motion passed by the committee that both SB356 and SJR8 do pass.

HEARING ON SB 352

Presentation and Opening Statement by Sponsor:

Senator Tom Rasmussen reported that SB352 essentially tells the Department of Family Services to go back into the child adoption service area. He noted that, historically, they have been in the business of child adoption and, just a few months ago, got out of the area of infant adoption, adding they are still in the older child adoption area. He indicated the bill requires that they cover the whole gambit of ages, as far as child adoption.

List of Testifying Proponents and What Group they Represent:

Jerry Strong, representing himself
Joan Wheeler, representing herself
John Wheeler, representing himself
Antoinette (Ann) Abernathy, representing herself
Janet Bahnsen, representing herself
Leslie Taylor, Attorney, Department of Family Services

Testimony:

Mr. Strong's written testimony is attached as Exhibit 2. He stated this bill may seem simple, but that it is not, because we are talking about people's lives; we are talking about babies, where they are going to be reared, and who is going to rear them; we are talking about people that, for unknown reasons, can not have a child of their own, but would like to have a family. Mr. Strong indicated that this piece of legislation is an excellent opportunity to deal with this, noting the first objective is the baby, and the second objective is the adoptive parents, because these are the two entities that will be together for the rest of their lives. He added that the birth mother is also going through a traumatic experience.

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Mr. Strong reported to the committee that he is telling them this from experience, in that he was placed for adoption. He stated that a lot of people who deal with these children, and with adoptive parents, deal with it from a textbook. He indicated some caseworkers have no idea of the traumatic experience that new parents and these children go through. Mr. Strong stated it can not be based on whether they are blonde and blue-eyed, whether they belong to the Green Meadow Country Club, whether they belong to the Catholic Church, or how much money they have. He indicated that has nothing to do with loving and rearing a child. He stated what it has to do with is how you treat these people; how you treat the adoptive parents, and how you treat the babies. Mr. Strong further indicated a match has to be made, and stated it can not be done out of a textbook, noting a 23 year-old social worker out of college can not match a baby with adoptive parents, pointing out that they have no experience.

Mr. Strong asked the committee to amend the bill so that the state has to be in the adoption business, and can not discriminate against people because of their age, sex or race. Mr. Strong mentioned that the director indicated they were no longer going to provide the service, and that he is going to "take his ball and go home". Mr. Strong stated that it is not his ball, it is our's, the citizens of Montana. He indicated this bill is to tell him that he can not take our ball and go to his house and that, if he does not want to obey the law, he should resign, and get someone in there that wants to place babies with loving, caring families that are qualified.

Mr. Strong reiterated that they do not want people discriminated against because they do not own a farm in Bozeman, they are not blue-eyed and blonde-haired, or they are not Catholic, or Lutheran. He noted this has nothing to do with being a parent, and asked the committee members if they would like their children taken away from them because they don't belong to the Catholic Church, or because they do not make \$100,000 a year, stating that it does not make sense.

Mr. Strong asked the committee to insert, in (e), the word "infant", so that it will read "infant adoption", and, in 6, include "that do not violate human and civil rights", so that they can not discriminate against these people. Mr. Strong stated he thinks we need to qualify people because they are loving, and because they are good citizens. He added that, the birth mothers who want to pick the religion, and pick this and pick that, should have picked some kind of birth control

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measure, instead of waiting until this point and making these choices.

Mr. Strong stated he has talked with a number of people, in the last month, that tried to go through the department to adopt babies and, because they did not attend church regularly, or did not have enough money, they were disqualified. He indicated this bill is badly needed because we are dealing with human lives, not with money. Mr. Strong pointed out they are not asking to have money appropriated, that they already have the mechanism in effect, and that what they want the bill to do is make these people do their jobs, without discriminating against people.

Testimony:

Ms. Wheeler's written testimony is attached as Exhibit 4.
Mr. Wheeler's written testimony is attached as Exhibit 6.

Testimony:

Ms. Abernathy indicated she is appearing today because she understands the state has recently dropped infant adoptions. She noted she is the proud mother of 2 very beautiful little boys, who are both adopted because of SRS, the state agency that is providing children. She testified that, had it not been for SRS, they would not have these children today, especially their son Danny, noting they were not qualified under the private agencies because they were not Catholic, not Lutheran, not Mormon, and, in many cases, beyond their age group. Ms. Abernathy added that the child's mother was 38 or 39 when she had him, they would not put her on the list for adoption because of her age, and yet, she was bearing a child. She indicated she feels very qualified to be mothering her two children, that she loves them dearly, noting they are not her flesh and blood, but they are her heart and soul.

Ms. Abernathy stated the private agencies, today, are not providing equally for all people, adding that SRS, in providing for infants, was doing a service that was not be duplicated, and is not being duplicated. She indicated she knows of 2 workers were providing services for pre-adoptive couples, post-adoptive couples and peer groups, which was through SRS. She noted there were panels, pre-adoptive, post-adoptive, and for adoptions that were disrupting, indicating that this service is not being taken care of through private agencies.

Ms. Abernathy told the committee that her birth son was killed on the way to school, and related the emotional damage they

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suffered due to his death. She reported they ran from the pain, that they owned a business where they worked day and night, but, when they finally decided they wanted to have a family again, they were not eligible to adopt because of their age. She noted that she appeared today because somebody fought for their right to have their son, and felt she needed to add her word, and her voice, that SRS needs to be back into infant adoption, and we need to have that wonderful service they were providing. She indicated she hopes that, after the committee considers this, they will find favorably for it.

Testimony:

Ms. Bahnsen's written testimony is attached as Exhibit 9.

Ms. Taylor's written testimony is attached as Exhibit 11.

Questions From Committee Members:

- Q. Senator Harding asked if the department does adoptions, now, for 2 years and older children.
- A. Ms. Taylor responded they do adoptions for children age 1 year and older, adding that children under 1 year old are considered infants.
- Q. Senator Bengtson indicated she is concerned about the budget, and asked if there is a change in the budget request for additional counselors, screening, or revamping of the procedures.
- A. Ms. Taylor responded that, because they were doing this previously, it would be difficult to support a request for additional staffing, additional adoption workers. She noted the revamping of the policies is probably the part that will take the most time, and they are doing that with current staff.
- Q. Senator Bengtson indicated that she imagines a lot of brainstorming will have to take place for them to meeting requirements of the court case, and asked if they can get the kinds of expert help and advice from someone, and can they work it out so that they will be able to do this without being taken to court again.
- A. Ms. Taylor responded she is not sure, that they will do the best they can, noting that no other case has ever come up along these lines. She stated that, when they were preparing for this case, almost all states that run a state adoption program, noting there are very few that

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run an infant adoption program at this stage, use the techniques that they use, doing the same things. She indicated that they are in the forefront in trying to meld the requirements of human rights legislation with the adoption program, noting she thinks they will come up with something and will go through the process.

Q. Senator Bengtson indicated that, even though it is just 10 babies, that means 10 happy families.

A. Ms. Taylor responded that is correct, adding there is no shortage of good parents, but there is a shortage of available babies.

Q. Senator Rapp-Svrcek asked Ms. Abernathy and Ms. Wheeler how old were their children when they were adopted through the state.

A. Ms. Abernathy responded her oldest was 8 months old, and the younger one was 2 months old.

Ms. Wheeler responded her son was 2 1/2 months, and her daughter was just a few weeks old.

Q. Senator Rapp-Svrcek asked Ms. Taylor if the department is certain they will have trouble with the natural parents if they are not allowed to screen for religious affiliation, and all the other things.

A. Ms. Taylor responded they were certain there will be birth parents who will not place with them under those restrictions, but added that she can not say that all of them care deeply about any of those criteria.

Q. Chairman Farrell asked, if these people do not place their children with SRS, where will they go.

A. Ms. Taylor responded they could go to one of the private agencies, or they can place independently under a parental placement, which is allowed by law.

Q. Chairman Farrell asked if that is their choice.

A. Ms. Taylor responded that is correct.

Q. Senator Rasmussen commented that it might be well to have a fee built into this, indicating he does not think the prospective new parents should expect the government to pay for everything when, in the private sector, there is

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a fairly substantial fee. He stated that he would propose an amendment that a fee be established, although he is not quite sure whether a fee would be set, or whether the department would be allowed to cover some of their costs. He noted the department is totally backlogged now and, with a fee, they could possibly hire another part-time person to be involved in this area.

Senator Rasmussen then asked Ms. Taylor if she has any indications as to what kind of fee would be appropriate.

- A. Ms. Taylor responded that they looked at the time involved in the study process, and have determined a fee of \$1,000 would cover that process, which includes the initial contact, the home study, checking references, etc. She indicated they decided that 50 hours is the amount of time that process would take, adding that there are also some post-placement things they do. Ms. Taylor pointed out that the training programs are run for all of their adoption programs, and are available to anyone.
- Q. Senator Rasmussen asked Ms. Taylor, from her perspective, what would she think of writing in a fee of \$1,000, or would she rather have it left open for them to establish rules.
- A. Ms. Taylor responded that her thoughts are that they will take any FTEs offered, but they would like to have the freedom to waive the fees for special needs children, indicating that would be children who are physically and mentally handicapped, part of a sibling group, or over the age of 2. She noted they want to encourage people to adopt those children, they are difficult to place, and they would not want the fee to be a barrier to that. Ms. Taylor added that, regarding healthy, white infants, she would have no objection to a fee, noting they are charging fees for some services now, and she is sure they could develop a fee schedule.
- Q. Senator Rasmussen asked Ms. Taylor how many they are adopting in these last couple of years, total.
- A. Ms. Taylor responded it is about 100 children per year. There was a comment that it was less than 100, which Ms. Taylor accepted, adding that it includes all children from ages 0 through 18.

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- Q. Senator Rapp-Svrcek asked how much do the private agencies charge, indicating that \$1,000 seems like a lot of money, but that it may be standard.
- A. Ms. Taylor responded that she is an adoptive parent, noting she adopted through the Montana Inter-Country Adoption Association, and they paid \$5,000. She added there were some extra fees because it was an inter-country adoption, that her child is Korean. Ms. Taylor indicated there are sliding scales, and it is between \$2,000 and \$5,000.
- Q. Senator Hofman asked the people that testified if they feel that \$1,000 fee to the department would be too high.
- A. Ms. Abernathy responded that her birth son cost \$2,500 16 years ago, indicating that \$1,000, considering what would be involved with hospital costs and other medical costs, and stated that having babies is expensive. She indicated that she would not be opposed to \$1,000, adding that she would feel she was getting by lightly paying just \$1,000 fee for the whole process. She noted that it may be prohibitive to some people but, if they were having their own children, they would be faced with that.

Ms. Wheeler responded that it is her feeling that it is reasonable to expect a fee, but indicated that private agencies charge anywhere from \$1,000 to \$5,000 and, if the state is no longer in the business of adoptions, who knows what the ceiling would be. She stated she thinks they have to keep it in perspective, and that maybe \$1,000 is too much for some people, and suggested some kind of sliding scale according to income. Ms. Wheeler added that the parents who are applying for adoption have to go through extensive physical exams, which are not cheap and are not covered by medical insurance. She stated that, if you have a child naturally, a lot of the expenses are covered by medical insurance. Ms. Wheeler stated she is in favor of the fee, but thinks that \$1,000 might be excessive, and could discriminate against some families, noting she does feel everyone has to have a lot of money to be a good family.

Closing by Sponsor:

Senator Rasmussen stated he thinks this has been a good hearing, and they have gotten a feel for what this change has done and how the department has served many people, and changed many lives when they were in the infant adoption

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process. He indicated he will look to work out amendment language with the legal counsel.

Chairman Farrell announced the hearing on SB352 as closed.

OTHER BUSINESS

Discussion: SB286

Chairman Farrell opened discussion on SB286. Senator Rapp-Svrcek indicated the amendments have been reviewed by the sponsor, Senator Beck, adding that the main thing they are trying to do with the bill is limit the technical challenges on ballot issues, and still maintain the public's access to the courts. Senator Rapp-Svrcek noted that the first amendment inserts, on page 1, line 17, following "unless", "the substance of a ballot issue is declared unconstitutional by a court of competent jurisdiction, or". He noted the second amendment would strike the first sentence on sub (2), lines 19 through 21, indicating this would allow the public access to the courts, adding that the first amendment makes it clear that, if the court declares something unconstitutional prior to an election, it does not get placed on the ballot. Senator Rapp-Svrcek offered a motion that the amendments to SB286 be adopted.

Senator Rapp-Svrcek offered a motion that SB286 as amended, do pass.

Recommendation and Vote: SB286

Motion passed by the committee that the amendments to SB286 be adopted.

Motion passed by the committee that SB286, as amended, do pass.

Discussion: SB296

Chairman Farrell announced the hearing on SB296, which was held open until today, as closed.

Senator Bengtson offered a motion that the amendments to SB286 be adopted.

Senator Rapp-Svrcek indicated he could explain the amendments, but asked that Steve Waldron, Executive Director, Montana

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Council of Mental Health Centers be allowed to do so. Chairman Farrell called upon Mr. Waldron.

Mr. Waldron noted the amendments are to indicate that announced inspections are those that the agencies should be working together on. He noted they are not required to use a single staff member from any particular agency, indicating the Department of Health, SRS, Department of Institutions and board of visitors are to, if possible and practical, come at the same time for site reviews. Mr. Waldron pointed out this strikes out licensing reviews, indicating it covers only the announced on-site inspections, stating they should try to come at the same time, but it does not require they shall, only that if it is practical they should come at the same time. Mr. Waldron indicated it eliminates the requirement that the Governor designate one state agency as the lead agency. He added that the codification section has been stricken.

Chairman Farrell asked Ms. McClure if she concurs with these amendments. Ms. McClure responded she discussed these amendments with Mr. Waldron, and that the agencies that do not do inspections have been stricken, as well as those agencies who, because of licensing problems, need to come at their own times. She added that, on line 21, page 2, they attempt to indicate the agency "shall, if possible and practical". Ms. McClure noted that some agencies are cooperating, and the bill, with these amendments, is attempting to indicate they should cooperate, if possible and practical.

Senator Harding asked about those agencies that want to continue unannounced inspections. Ms. McClure pointed out that, on page 1, line 19, the word "announced" has been inserted after the word "and", to read "and announced inspection".

Senator Bengtson noted she does not know if this does any good, but noted it can not do any harm. Senator Hofman stated his concerns that, during these inspections, the staff has to drop whatever they are doing, and are told if they do not shape up they will get a bad report, and this is not a good situation. With regard to audit reports, he indicated it has become a harassing situation noting that, although it is not intended to be so, it turns out that way.

Senator Vaughn asked Mr. Waldron if he feels comfortable with the board of visitors being included. Mr. Waldron responded yes, indicating that is one of the main ones they have a problem with, noting that the Department of Institutions may come in for a 5 day inspection, and the board of visitors

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comes in for a 3 day inspection, adding it would be nice if they came in at the same time. He stated he does not think it would be that hard for them to do.

Senator Abrams asked Tom Posey, of the Alliance for the Mentally Ill, his opinion. Mr. Posey stated they are still opposed to this bill in its present form. He indicated they are still concerned that having the board of visitors come in at the same time as some of the others might dilute the intent of the board of visitors' visitation, which is consumer protection, not monitoring of fiscal records, or many of the other things, noting he can see no reason why the board of visitors can not be amended out, and still achieve what the Senator originally wanted, which was to lessen the number of visits. Mr. Posey stated he is uncomfortable with the board of visitors being lumped in with all of the others.

Chairman Farrell asked Mr. Posey if the board of visitors has announced visits. Mr. Posey responded they do, that they announce most of their visits. He indicated they have the right to do unannounced visits, but very seldom do they do so. Chairman Farrell indicated that, as he understands it, all they are doing is asking them, on their announced visits, to come with other people that may be announcing at the same time, if possible and practical, and that this is not limiting their unannounced visits. Mr. Posey indicated he is not worried about their unannounced, that he is worried about them being included, even in the announced.

Senator Bengtson offered a motion that SB296 do pass as amended.

Recommendation and Vote:

Motion passed by the committee that the amendments to SB296 be adopted.

Motion passed by the committee that SB296 do pass as amended, with Senator Harding opposed.

Discussion: SB 325

Senator Rapp-Svrcek offered a motion that SB325 do pass. He indicated all the other boards of a similar make-up receive compensation for their service, and this bill is to bring the Arts Council into equality with the other boards, and it makes sense to do so.

SENATE COMMITTEE ON STATE ADMINISTRATION

February 13, 1989

Page 16 of 17

Senator Hofman indicated he did not hear the testimony on SB325, and asked what they were doing up until now. Senator Rapp-Svrcek responded they have received only travel expenses, and that they are the only board that does not get compensation for their time, noting the other boards receive compensation as well as travel expenses. Senator Bengtson indicated the Arts Council has a lot more responsibility, now, than they used to. She added the Council does a lot of work, that they review a lot of grants, and are active in every community in the state. Senator Bengtson noted she serves on a subcommittee that works on their budget, that they only meet quarterly, and do a lot of work on their own. She added she does not think they are asking too much.

Senator Anderson indicated this will cost about \$6,000 per year, but that half is paid by the federal government, and it will amount to about \$3,000 for the biennium. Senator Harding asked Ms. McClure if advisory boards are paid a per diem. Ms. McClure responded that these boards are paid under the same statute as a quasi-judicial board.

Recommendation and Vote:

Motion passed by the committee that SB325 do pass.

Discussion: SB 346

Senator Bengtson offered a motion that SB346 do pass.

Recommendation and Vote:

Motion passed by the committee that SB346 do pass.

Discussion: SB 352

Chairman Farrell opened discussion regarding SB352, indicating the fiscal note has not been received. Senator Rasmussen indicated a fiscal note has not been ordered, noting it was the opinion of the attorney and the director that there would not be any fiscal impact. Senator Bengtson reminded Senator Rasmussen that an amendment was proposed to include a fee. There was discussion regarding the suggested amendments, and Senator Rasmussen asked, if a fee is included, would a fiscal note be required. Ms. McClure responded that, when it goes to the floor, the question will probably come up as to how much money is being talked about, and this could hold it up. Senator Rasmussen stated he would request a fiscal note. Chairman Farrell indicated committee action on SB352 will not be held up past Thursday waiting for the fiscal note.

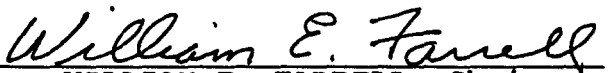
SENATE COMMITTEE ON STATE ADMINISTRATION

February 13, 1989

Page 17 of 17

ADJOURNMENT

Adjournment At: 11:30 a.m.


WILLIAM E. FARRELL, Chairman

WEF/mhu
SJR8.213

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE:

February 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTSO	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 356 (first reading copy -- white), respectfully report that SB 356 do pass.

DO PASS

Signed: Farrell

William E. Farrell, Chairman

H.C. 189
3/13/89
3:15 P.M.

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SJR 8 (first reading copy -- white), respectfully report that SJR 8 do pass.

DO PASS

Signed: Farrell

William E. Farrell, Chairman

41.0.101
211325
22: p. 11

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 286 (first reading copy -- white), respectfully report that SB 286 be amended and as so amended do pass:

1. Page 1, line 17.

Following: "unless"

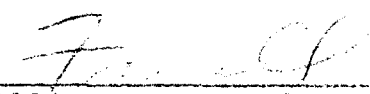
Insert: "the substance of a ballot issue is declared unconstitutional by a court of competent jurisdiction, or"

2. Page 1, lines 19 through 21.

Following: "(2)"

Strike the remainder of line 19 through "issue." on line 21

AND AS AMENDED DO PASS

Signed: 

William E. Farrell, Chairman

41.0
2/13/89
3:11
p.m.

SENATE STANDING COMMITTEE REPORT

page 1 of 3
February 13, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 296 (first reading copy -- white), respectfully report that SB 296 be amended and as so amended do pass:

1. Title, line 5.

Following: line 4

Strike: "LICENSING,"

Following: "REVIEW"

Strike: ", "

2. Title, lines 7 through 9.

Following: "AGENCY;"

Strike: the remainder of line 7 through "INSPECTION;" on line 9

3. Page 1, line 19.

Following: "and"

Insert: "announced"

4. Page 2, lines 5 and 6.

Following: line 4

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

5. Page 2, lines 9 through 12.

Following: line 8

Strike: subsections (c) and (d) in their entirety

Renumber: subsequent subsections

6. Page 2, line 16.

Following: "; "

Insert: "and"

7. Page 2, line 18.

Following: "2-15-211"

Strike: "; and"

Insert: "."

8. Page 2, lines 19 and 20.
Following: line 18
Strike: subsection (h) in its entirety

9. Page 2, line 21.
Following: "Joint"
Strike: "licensing,"
Following: "review"
Strike: " , "

10. Page 2, lines 22 and 23.
Following: "shall"
Insert: " , if possible and practical , "
Following: "joint"
Strike: "licensing,"
Following: "review"
Strike: " , "

11. Page 2, line 24.
Following: "joint"
Strike: "licensing,"
Insert: "announced on-site"
Following: "review"
Strike: " , "

12. Page 3, lines 1 through 4.
Following: "similar"
Strike: "licensing,"
Following: "review"
Strike: " , "
Following: "time" on line 2
Strike: the remainder of line 2 through "inspection" on line 4

13. Page 3, line 7.
Following: "agency"
Strike: "shall"
Insert: "may"

14. Page 3, line 9.
Following: "specific"
Strike: "licensing,"
Following: "review"
Strike: ",,"

15. Page 3, line 12.
Following: "conduct"
Strike: "licensing,"
Following: "review"
Strike: ",,"

16. Page 3, lines 16 through 22.
Following: line 15
Strike: section 5 in its entirety
Renumber: subsequent section

17. Page 4, lines 2 through 5.
Following: line 1
Strike: section 7 in its entirety
Renumber: subsequent section

AND AS AMENDED DO PASS

Signed: William E. Farrell
William E. Farrell, Chairman

4/10/84
2/11/85
3/11/11

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 325 (first reading copy -- white), respectfully report that SB 325 do pass.

DO PASS

Signed: Farrell

William E. Farrell, Chairman

4/13/89
3:35
3:00 P.M.

scrib325.213

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 346 (first reading copy -- white), respectfully report that SB 346 do pass.

DO PASS

Signed: Farrell

William E. Farrell, Chairman

y/c.
2/13/89
3:35 p.m.

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 2/13/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB356

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

Joe Hansen

2-12-89

Address:

1309 HILMAN RD
HELENA

Phone:

458-9278

Representing whom?

American Legion

Appearing on which proposal?

SB 356

Do you:

SUPPORT?

☒

AMEND?

☐

OPPOSE?

☐

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

SENATE BILL 352 IS A SPECIAL CHANCE TO DEAL OBJECTIVELY AND HONESTLY WITH INFANT ADOPTION.

IN THIS PIECE OF LEGISLATION WE HAVE AN EXCELLANT OPPORTUNITY TO PROVIDE INFANTS THAT ARE UP FOR ADOPTION TO BE PLACED WITH PEOPLE WHO WILL LOVE AND CARE FOR THEM. THESE PEOPLE AS WELL AS THE BABIES ARE TO BE CONSIDERED IN THIS PROCESS. THERE ARE SIX INDIVIDUALS/ ORGANIZATIONS INVOLVED IN THIS PROCESS.

NUMBER ONE IS THE WELL BEING AND CONCERN FOR THE BABIES WELFARE BY PLACING THE INFANT WITH LOVING AND CARING PEOPLE.

NUMBER TWO IS THE BIRTH MOTHERS KNOWLEDGE THAT HER BABY WILL BE LOVED AND CARED FOR THUS RELIEVING THE TRAUMATIC EXPERIENCE OF PUTTING HER BABY UP FOR ADOPTION.

NUMBER THREE IS THE PROSPECTIVE PARENTS WHO HAVE BEEN QUALIFIED TO RECEIVE AN INFANT INTO THEIR LIVES. THIS IS A BEAUTIFUL AND TRAUMATIC EXPERIENCE FOR THESE PEOPLE TO FINALLY BECOME PARENTS IN THAT THEIR DREAMS AND ASPIRATIONS HAVE COME TO REALITY BUT WHAT AN AWESOME RESPONSIBLITIY TO ASSUME.

NUMBER FOUR IS THE DEPARTMENT OF FAMILY SERVICES THE ENTITY THAT QUALIFIES BOTH INFANTS AND PROSPECTIVE PARENTS AS TO ADOPTION QUALIFICATIONS.

NUBMER FIVE ARE THE PRIVATE ADOPTION AGENCIES THAT PLACE INFANTS WITH PROSPECTIVE PARENTS BECAUSE THE STATE HAS ABDICATED THEIR RESPONSIBILITY TO PLACE THESE INFANTS TO OTHER FOR PROFIT ORGANIZATIONS.

NUMBER SIX IS THE STATE OF MONTANA OR WE THE PEOPLE. IT IS THE RESPONSIBLITY OF SOCIETY TO PROTECT AND PROVIDE FOR THE BASIC NEEDS OF THESE INFANTS. IN SO DOING, WE MUST ALSO ADHERE TO THE RULES OF

SOCIETY THAT SAY THERE WILL BE NO DISCRIMINATION AGAINST OUR CITIZENS
BASED ON AGE, SEX, MARITAL STATUS, RELIGION, ETC. AS TO THEIR RIGHT
TO ADOPT AN INFANT.

WHETHER YOU OWN A FARM IN BOZEMAN, ARE BLONDE AND BLUE EYED, HAVE
AN INCOME OF \$100,000 A YEAR, BELONG TO CATHOLIC, BAPTIST, METHODIST,
PRESPETARIAN, JEWISH, MORMON CHURCH, ARE A MEMBER IN THE COUNTRY CLUB,
DOES NOT MEAN YOU WOULD MAKE A GOOD PARENT BUT DOES NOT MEAN YOU WOULD
NOT EITHER. THE CRUX OF THE PROBLEM IS THAT A PERSON CANNOT BE
DISCRIMINATED AGAINST.

WHEN THE DIRECTOR OF A DEPARTMENT CAN SAY TO THE PEOPLE OF MONTANA
THAT HIS DEPARTMENT DISCRIMINATES AND IF HE CAN'T USE THIS AS A BASIS
FOR QUALIFYING ADOPTIVE PARENTS, HE WILL REFUSE TO PROVIDE THIS
SERVICE AS MANDATED BY LAW, THEN THAT PERSON SHOULD BE REMOVED BECAUSE
HE HAS PLACED HIMSELF ABOVE THE LAW. COMMITTEE MEMBERS, THIS HAPPENED.

WE NEED A LAW THAT REQUIRES THE STATE TO MEET IT'S OBLIGATION FIRST
TO THE INFANT AND SECOND TO THE ADOPTIVE PARENTS WITHOUT BEING ABLE
TO BREAK THE LAW OR TAKING THEIR BALL AND GOING HOME. THE BILL NEEDS
TO BE FAIR IN THAT AN ADOPTION CANNOT DRAIN ADOPTIVE PARENTS MENTALLY,
EMOTIONALLY AND FINANCIALLY.

FINALLY, WE NEED BASICALLY TO ADDRESS THE BUSINESS OF ADOPTION TOTALLY
AS TO WHAT THE RESPONSIBILITIES OF THE DEPARTMENT OF FAMILY SERVICES
WILL BE FOR THE STATE OF MONTANA. REQUIRED INFANT ADOPTION SERVICES
WITH ADHERENCE TO THE LAW. REQUIRED LICENSING OF PRIVATE AGENCIES
IF THEY ADHERE TO THE LAW.

THANK YOU FOR YOUR TIME AND I HOPE YOUR COMPASSION FOR THESE BABIES
AND PROSPECTIVE ADOPTIVE PARENTS WILL SHOW IN THIS BILL.

JERRY STRONG

EXHIBIT NO. 3DATE 2/13/89BILL NO. SB352

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

JERRY TRUNG

DATE:

2-

Address:

5821 Highway 12W
Helena Mont.

Phone:

442-1293

Representing whom?

Self

Appearing on which proposal?

S.B. 352Do you: SUPPORT? ☒ AMEND? ☒ OPPOSE? ☐

Comments:

Bill needs to be amended
to read the STATE shall maintain
an infant adoption service and shall
adhere to non-discriminatory criteria.
The Dept. shall license ^{private} adoption
agencies and they shall not use
discriminating criteria in the process

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Good Morning. My name is Joan Wheeler. I am here today in support of Senate Bill 352.

My husband and I are parents of two beautiful adopted children, one boy 12 years of age and a daughter soon to be 1.

We received our children from the State of Montana Adoptive Services. (I think Montana must be the only state in the country no longer providing infant adoptive services.)

Oftentimes I do reflect back on how different our lives would have been today if the State had not provided infant adoptive services back then. For you see, we did not qualify as parents through any of the five private agencies in Montana.

1. We did not qualify through LDS Services, because we were not affiliated with the LDS church.
2. We did not qualify through Catholic Social Services because we were not affiliated with any Catholic church.
3. We did not qualify through Lutheran Social Services because, although we were both confirmed Lutherans, we were now attending a church of our choice, the Assembly of God here in Helena.

4. We did not qualify through Shodair because of our age.

5. We did not qualify through Montana Inter-Country Adoption Incorporated, out of Bozeman, because of our age.

In fact, we did not qualify through many of the private agencies in the state because of our religious affiliation. All the agencies denied us the privilege of parenting because of age.

For you see, Gentlemen, (and Ladies), someone in my family made the mistake of waking up one morning and discovering that he was no longer 39 years old, but instead 40. I was 31 years old when we received our first child. I decided to give up or at least "put on hold" my teaching career with the Helena School District so that I would be able to stay at home with our family. My age was not in question YET! Just my husband's.

I believe that private church-affiliated adoption agencies provide something that is important to everyone and that is our right to choose our religious affiliation. They also protect the religious rights of the biological mother in providing her with the option to choose her agency with respect to her religious affiliation. That is good.

Now age -- that is another matter.

Let me ask you: Do any of you here today know of a couple who has children in which one of the parents is 40 or older? I do -- many! Are they loving and responsible parents, or not? Does your answer have anything to do with the age of these parents? Mine doesn't.

Because private agencies do not meet the religious and economic needs of everyone (Yes--the cost of adoption can be high) -- the State of Montana has an obligation to the people of Montana and the children of Montana to continue to provide infant adoption services.

Who else will stand in the gap and be a champion of human rights by offering services that are in compliance with discrimination laws to all the people of Montana?

Who else will monitor the cost of adoption so that it is fair and reasonable to all?

I don't think that any of us here today want to see a situation where the "profit motive" becomes more important than the needs of children. At this point, we are fortunate to have agencies where profit is not the motive -- children are. We have all read or heard stories where this is not the case. There is "really big money" to be made in providing adoptive services,

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 2/13/89

BILL NO. SB352 pg 4

not only for the biological mother but for the unscrupulous agent who puts them together.

We need Montana to continue to provide infant adoptive services, to protect our children and to put good parents and children together!

Thank you.

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 2/13/89

STATE ADMINISTRATION COMMITTEE

BILL NO. SB352

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

Don Wheeler 2/13/89

Address:

628 Hayes Ave
Helena MT

Phone:

442 9529

Representing whom?

Appearing on which proposal?

SB 352

Do you: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

Comments:

I would like to see the
State continue Redefine process
see exhibit #4

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 6

DATE 2/13/89

BILL NO. SB 352

Hi. My name is John Wheeler. I am in support of Senate Bill 352.

I am here today because I have some strong feelings that I want you to hear. I am 12 years old and am an adopted child. I am grateful for so many things: my parents, whom I love, and my newly adopted sister, whom I love. She is so cute and so much fun to watch and to play with. I can't put into words what my family means to me. They are so important.

I am grateful that when I was an infant and when my sister was an infant that the State of Montana cared about us and for us -- they gave us my family. This was the best thing in my life.

I am asking that Montana continue to provide infant adoption services to all of us. If they don't, other children like me may not be placed in homes like the one I have.

Thank you.

EXHIBIT NO. 7DATE 2/13/89BILL NO. SB352

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

John Wheeler2/13/89

Address:

628 Hayes

Phone:

442-9529

Representing whom?

~~SB~~

Appearing on which proposal?

SB 352Do you: SUPPORT? X AMEND? OPPOSE?

Comments:

Please keep adoption! - see Exhibit #6

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO.

8

DATE

2/13/89

BILL NO.

56352

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

ANTOINETTE (AN.) ABERNATHY 2/13/89

Address:

Box 156 Saddle Mtn EST.

CLancy MT 59634

Phone:

443-7212

Representing whom?

Appearing on which proposal?

352

Do you:

SUPPORT?

Heartily

✓

AMEND?

OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Good morning! My name is Janet Bahnsen & I have a problem. Last November, my husband & I found out that if our ten year dream of having a baby was to become reality, we would have to adopt. And since we have some friends who had a successful adoption placement from the State Dept. of Family Services, we decided to apply through that agency, too. But before we could put in an application there, we read in the IR that the State was going to drop the infant adoption program.

Therefore, we had to look at other options. We then decided to apply at Shodair. One of their basic requirements was that the adoptive applicants be between the ages of 20 and 40 years old. That posed a problem for us, as that while I am 35 years old, my husband is over 40. We decided to send in our application anyway to see if there was any hope. After waiting for 2 months for a reply back from Shodair, I finally called Becci Jones, the director of Adoptive Services at Shodair. She did not refuse to take our application, but told me that there was not much chance for us having a baby placed in our home because of the age problem.

So I got some information from Bethany International Adoptions, only to be stopped again by the 40 year old age barrier, which is also a requirement of the Catholic, Lutheran, and L.D.S. Services.

In fact, the State Dept. of Family Services was the only agency in Montana that could not use age and/or religious affiliation as a requirement.

SENATE STATE ADMIN.

EXHIBIT NO. 9

DATE 2/13/89

BILL NO. SB 352 pg 2

There are other childless couples like us who because of age or religious affiliations don't qualify at the private agencies in Montana. It is a very hopeless and frustrating situation.

There needs to be a solution for us and other couples who are longing for a child. One article in the IR, dated 3-06-87, stated that from 1983-1986, 256 babies were adopted through the State S.R.S. This would seem to indicate that the State Infant Adoption Program works. Therefore I support Senate Bill 352 because I see it as a solution to the problem.

Thank you.

SENATE STATE ADMIN.

EXHIBIT NO. 10DATE 2/13/89BILL NO. SB352

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

Janet Bahnsen2-13-89

Address:

508 MadisonHelena MT

Phone:

442-8100

Representing whom?

Appearing on which proposal?

SB 352

Do you:

SUPPORT?

X

AMEND?

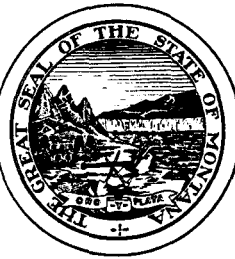
OPPOSE?

Comments:

I'm interested in seeing the State D.F.S.
stay in the adoption business.
see Exhibit #9

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DEPARTMENT OF FAMILY SERVICES



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

Testimony in Support of SB 352

Presented by Leslie Taylor,
Attorney for the Department of Family Services

The Department of Family Services supports SB 352 to the extent that it furthers or promotes the adoption of children. The Department currently has established and administers an adoption program for children between the ages of one and 18 years of age. See, Section 52-1-103 (1) (e), MCA.

In November 1988, the Department discontinued its adoption program for children under the age of one. Birth parents wishing to voluntarily place their infants for adoption are now referred to one of Montana's five private, licensed adoption agencies. The Department adopted this policy for two major reasons. First, the Department had contemplated discontinuing its infant adoption program for a number of years because of the limited numbers of infants placed by the Department. Over the last several years, the Department has placed an average of only 10 infants per year. Nearly all of these placements were voluntary placements made at the request of birth parents wishing to place their child for adoption.

The second reason the Department discontinued its infant adoption program was because of the practical difficulties imposed on the program as a result of the decision of the Montana Human Rights Commission in the Wheeler v. Department of Family Services case. That decision prohibited the Department from allowing birth parents to specify criteria related to age, religion or marital status in selecting adoptive parents for their child. Because the Department could no longer allow the use of such criteria in selecting an adoptive family, the Department's ability to work with birth parents was severely restricted. It seemed likely that inability to consider these criteria, which are often very important to birth parents, would result in even fewer birth parents seeking the assistance of the Department in planning for the voluntary placement of their children for adoption. The Department's existing policies and procedures could not be continued under the Wheeler decision and the Department could not devise a practical and efficient mechanism to allow the birth parents to participate fully in the selection process. For example, the Department could no longer show pictures or arrange pre-adoptive meetings between the birth parent and the prospective

adoptive parents. Given the limited numbers of infant adoptions and the practical problems in revising the existing policies and procedures, the Department chose to discontinue its infant adoption program and rely on the private sector to provide this service.

The Department continues to place children over the age of one for adoption. These children usually are placed after being permanently removed from their parents because of abuse or neglect. Because the parents' involvement in the selection of the adoptive families in such cases is more limited, it is easier for the Department to conduct its adoption program within the guidelines established by the Human Rights Commission. In these cases it is the Department, not the parents, that makes the selection of the adoptive home. The Department is in the process of revising its policies and procedures to assure that the adoption program meets the requirements of the Human Rights Commission decision.

The Department is prepared to reassume responsibility for administering an infant adoption program if SB 352 is enacted, but it will require a total revamping of existing practices. This revamping will take some time and some creative thinking to devise a system for selecting adoptive families which will meet the needs of the child, the birth parents and the prospective adoptive parents while adhering to the mandates of the Human Rights Commission. Although difficult, the task the Department will face if SB 352 passes is not impossible.

SENATE STATE ADMIN.

EXHIBIT NO. 12

DATE 2/13/89 STATE ADMINISTRATION COMMITTEE

BILL NO. SB352

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Leslie Taylor

DATE:

2/12/89

Address:

Dept of Family Services
Box 8005, Helena

Phone:

444-5900

Representing whom?

DFS

Appearing on which proposal?

SB 352

Do you: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

Comments:

see Exhibit # 11

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

KINKO'S

FAX COVER SHEET

Date: 12 Feb 89

This fax is directed to (person) : Senator William Farrell, Chairman

Please notify this person that they have been sent a fax.

URGENT? ☒ Yes ☐ No

Department : State Administration Committee

Company : Montana State Legislature

Business Phone : _____

Fax Phone : (406) 444-4105
(Page to Deliver)

Number of pages, including this cover sheet : 2

Special Instructions: Deliver to Committee Room 331
by Monday, 13 February @ 10:00 AM

This FAX has been sent by : Richard N. Traynham, Ph.D.

Department : Clinical Psychologist

Company : 111 S Tracy Ave, Bozeman, MT 59715

Phone : (406) 586-7776

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Bozeman, MT 59715

RICHARD N. TRAYNHAM, PH.D.
LICENSED CLINICAL PSYCHOLOGIST
BOZEMAN, MONTANA 59715-6113 U.S.A. (406) 586-7778

CLINICAL OFFICE:
111 SOUTH TRACY AVENUE

SENATE STATE ADMIN.
EXHIBIT NO. 13
DATE 2/13/89
BILL NO. SB296 pg 2
ADMINISTRATIVE OFFICE:
504 WEST HENDERSON STREET

11 February 1989

TO: William Farrell, Chairman and Members,
Senate State Administration Committee
Montana State Legislature

RE: Senate Bill 296, an act requiring
joint reviews of mental health centers.

I wish to register my concern, as a clinical psychologist, about this bill as it is currently written. Although the concept of a joint review is worthy of consideration, the concept of one state agency reviewing with one set of forms for all agencies is not. Section 3, as it is currently written, will produce conflicts of interest and destroy the independent functions of some agencies.

Several years ago I served as an independent consultant for the Mental Disabilities Board of Visitors and I am well aware of the concerns of community mental health centres related to having to prepare for numerous site visits. I was also exposed to the feeling in most, but not all, of the centres of defensiveness toward review of patient rights and treatment by this board. My experience also found that a variety of deficiencies and recommendations presented by this board to some community mental health centres were not followed through with because of a lack of ability of the board to force compliance.

I applaud the concept of a joint site review with members of all agencies involved as a means of increasing compliance with current laws related to the functioning of our system of community mental health. One state agency should be appointed to direct the scheduling of these site visits and preparation of the final report, however each independent agency should provide their own team to review according to their function. Compliance in improving deficiencies could be monitored by the independent agencies and some means of enforcement of change developed by the lead agency.

My professional opinion is that this law can be modified in such a fashion so that the needs of the community mental health centres and the needs of the citizens of the State of Montana will be served in a quality fashion.

Sincerely,



R. (Dick) N. Traynham, Ph.D.
Clinical Psychologist
504 West Henderson Street
Bozeman, MT 59715-61143

RNT/wp5

Amendments to Senate Bill No. 286
First Reading Copy

Requested by Senator Rapp-Svrcek
For the Committee on Senate State Administration

Prepared by Eddye McClure
February 13, 1989

1. Page 1, line 17.

Following: "unless"

Insert: "the substance of a ballot issue is declared
unconstitutional by a court of competent jurisdiction, or"

2. Page 1, lines 19 through 21.

Following: "(2)"

Strike: the remainder of line 19 through "issue." on line 21

Amendments to Senate Bill No. 296
First Reading Copy

For the Committee on Senate State Administration

Prepared by Eddye McClure
February 8, 1989

1. Title, line 5.
Following: line 4
Strike: "LICENSING,"
Following: "REVIEW"
Strike: ", "

2. Title, lines 7 through 9.
Following: "AGENCY;"
Strike: the remainder of line 7 through "INSPECTION;" on line 9

3. Page 1, line 19.
Following: "and"
Insert: "announced"

4. Page 2, lines 5 and 6.
Following: line 4
Strike: subsection (a) in its entirety
Renumber: subsequent subsections

5. Page 2, lines 9 through 12.
Following: line 8
Strike: subsections (c) and (d) in their entirety
Renumber: subsequent subsections

6. Page 2, line 16.
Following: ";"
Insert: "and"

7. Page 2, line 18.
Following: "2-15-211"
Strike: ";and"
Insert: "."

8. Page 2, lines 19 and 20.
Following: line 18
Strike: subsection (h) in its entirety

9. Page 2, line 21.
Following: "Joint"
Strike: "licensing,"
Following: "review"
Strike: ", "

10. Page 2, lines 22 through 24.
Following: "shall"
Insert: ", if possible and practical,"
Following: "joint"
Strike: "licensing,"
Following: "review"
Strike: ", "
Following: "joint"
Strike: "licensing,"
Insert: "announced on-site"
Following: "review"
Strike: ", "

11. Page 3, lines 1 through 4.
Following: "similar"
Strike: "licensing,"
Following: "review"
Strike: ", "
Following: "time"
Strike: the remainder of line 3 through "inspection" on line 4

12. Page 3, line 7.
Following: "agency"
Strike: "shall"
Insert: "may"

13. Page 3, line 9.
Following: "specific"
Strike: "licensing,"
Following: "review"
Strike: ", "

14. Page 3, line 12.
Following: "conduct"
Strike: "licensing,"
Following: "review"
Strike: ", "

15. Page 3, lines 16 through 22.
Following: line 15
Strike: section 5 in its entirety
Renumber: subsequent section

16. Page 4, lines 2 through 5.
Following: line 1
Strike: section 7 in its entirety
Renumber: subsequent section

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE:

February 13, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Robt. Vandenberg	Self	356	X	
Jae Hanson	American Legion	356	X	
Don Dickader		352	X	
John Wheeler		352	X	
Jan Bahner		352	X	
Dr. Chapman		352	X	
John Decker	Dis Armer Vets	352	✓	
James H. Rehbein	Dept. Command Disabled American Veterans	352	✓	
Leslie J. Jura	DFS	352	✓	
JERRY SKRANT	Self	352	✓	
Hert Goodwin	Self	356 & 8	✓	
Bob Dierker	Self	356 & 8	✓	
BETTY Bty		356		
Patty Curvell	Pro-Family Women's Lobby	356 352	✓	
Donna Vandewere	Pro-Family Women's Lobby	356 352	✓	
Meredith Anderson		356	✓	
Rich Brown		356	✓	
Frank L. Kiedler		356	✓	
Steve Wachter	Mental Health	SB796	✓	
Beth O'Hellor	Mont Fed Teacher			
Dee Moore	Board of Visitors			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE:

STATE ADMINISTRATION COMMITTEE

DATE: February 13, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STATUS SHEET

51st LEGISLATIVE SESSION

STATE ADMINISTRATION

COMMITTEE

Page 4

BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
SB325 ^(R)	2/2/89	2/10/89	2/13/89	2/13/89							EFF. DATE 10/1/89
SB328 ^{T(FN)}	2/2/89	2/10/89									TABLED IN AS AMENDED
SB336 ^(R)	2/3/89	2/9/89	2/10/89		2/10/89						TABLED IN AS AMENDED
SB343 ^(R)	2/4/89	2/13/89	2/6/89	Back to Bills Coord- Referred in evn-Belong to Later							X
SB346 ^(FN)	2/4/89	2/9/89	2/13/89	2/13/89							EFF. DATE 10/1/89
SB348 ^(R)	2/4/89	2/13/89	2/6/89	Back to Bills Coord- Referred in evn-Belong to Later							X
SB352 ^(FN)	2/6/89	2/13/89	2/16/89			2/16/89					TABLED IN AS AMENDED
SB356 ^(FN)	2/6/89	2/13/89	2/13/89	2/13/89							RET. FROM ENROLLMENT
SB362 ^(FN)	2/7/89	2/14/89	2/16/89	Tabled by Committee							TABLED IN AS AMENDED
SB376 ^(FN)	2/8/89										TABLED IN AS AMENDED
SB381 ^(FN)	2/9/89	2/14/89	2/16/89	2/16/89							EFF. DATE 1/1/90
SB394 ^(R)	2/11/89	2/16/89	2/14/89	Back to Bills Coord- Referred to Judiciary							X
SB395	2/11/89	2/15/89	2/16/89			2/16/89					STANDING COMMITTEE
SB396 ^(FN)	2/11/89	2/15/89	2/17/89			2/17/89					TABLED IN AS AMENDED

se a separate sheet for Senate Bills, House Bills, and Resolutions.

SENATE BILLS

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on March 15, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All present, except:

Members Excused: Reps. O'Connell and Moore

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies, Staff Researcher

Announcements/Discussion: Chairman Brown announced that Lois Menzies does not have all of the information ready on HB 357. We will work on that tomorrow.

HEARING ON SB 325

Presentation and Opening Statement by Sponsor: Sen. Bill Yellowtail, Senate District 50, Big Horn County, introduced the bill. Under current law, the 15-member Montana Arts Council serves without compensation; however, members are reimbursed for travel expenses. This bill permits Council members to receive a salary of \$50 a day. Members will continue to be reimbursed for travel expenses.

Sen. Yellowtail said that the Montana Arts Council is the last such council in state government to be left without compensation when they attend board meetings. He said that they do receive compensation for mileage and per diem costs.

Testifying Proponents and Who They Represent:

David Nelson, Executive Director, Montana Arts Council

Gloria Hermanson, Montana Cultural Advocacy

Proponent Testimony:

DAVID NELSON, Executive Director, of the Montana Arts Council said the Council is a hard working group as Sen. Yellowtail can attest to as he served on the Council for a number of years. It is modeled after every other council and commission that does receive the honorarium. Mr. Nelson said that the bill would just be dealing with an oversight.

The people that serve in the Council are very generous with their time, but different issues have appeared such as day care and artists' loss of income while they are serving. Mr. Nelson said the bill is fair and just, and he would appreciate the Committee's support.

GLORIA HERMANSON, representing the Montana Cultural Advocacy, said she rises in support of the bill.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. DEBRUYCKER asked when the Montana Arts Council was formed and what are its duties. Mr. Nelson said that the Montana Arts Council was formed in approximately 1970. Its role is to support the cultural community in this state, which it does through a variety of mechanisms. Those mechanisms include grantee technical assistance and a variety of programs with the schools that provides residency for artists in the school system.

REP. WESTLAKE asked how many times a year does the Council meet. Mr. Nelson said that they meet four times a year.

Closing by Sponsor: Sen. Yellowtail said that this is a very straightforward bill. He referred the Committee to the fiscal note. He said this is a relatively low-impact bill, costing a total of \$6,000, of which only \$3,000 must come from Montana sources. The other \$3,000 comes from federal matching monies.

DISPOSITION OF SB 325

Motion: REP. NELSON moved SB 325 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED 11 - 5, with Reps. DeBruycker, Hayne, Roth, Campbell and Phillips voting no. Rep. Russell will carry this bill on the House floor.

HEARING ON SB 178

Presentation and Opening Statement by Sponsor: Sen. Bill Yellowtail, Senate District 50, Big Horn County, introduced the bill. Under current law, a member of the Firefighters' Unified Retirement System hired before July 1, 1981, or his surviving spouse or dependent children is entitled to receive a supplemental allowance that when added to the

member's service retirement allowance may not be less than one-half the salary paid to a newly-confirmed firefighter of the city that last employed him as a firefighter. This bill extends this benefit enhancement to members hired on or after July 1, 1981, who have both completed 25 years of service and reached age 50 as an active firefighter and to their beneficiaries. The supplemental allowances will be funded through an existing tax of 1.5 percent on the fire portion of direct insurance premiums. If the funds are insufficient to fully fund the supplemental allowances, the allowances must be reduced by an equal percentage so that the amount available for funding is not exceeded.

Testifying Proponents and Who They Represent:

Tim Bergstrom, Montana State Firemens' Association

Edward Flies, Montana State Council of Professional Firefighters

Proponent Testimony:

TIM BERGSTROM, representing the Montana State Firemens' Association, distributed to the Committee a packet of materials including information on the Firefighters' Unified Retirement System (Exhibit 1) and one copy of his written testimony (Exhibit 2).

EDWARD FLIES, representing the Montana State Council of Professional Firefighters, said we stand in support of this bill.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. ROTH said that the fiscal note indicates that under the current law, the general fund would be reduced \$49,000. At the bottom of the fiscal note it says, it would be increased by approximately \$49,000. He asked for an explanation. Mr. Bergstrom said that the validity of the fiscal note was questioned when it was first produced in the Senate Committee. Larry Nachtsheim from the Public Employees' Retirement Division also questioned that. The letter that we were provided by Alton P. Hendrickson, an actuary, says that there is no fiscal impact.

Closing by Sponsor: Sen. Yellowtail said that he wants the Committee to know that the bill is actuarially sound. There also is the safety clause which is written into the bill that says if the funds fall short, the benefits are prorated downward. So there would be no burden on the state from an unforeseen shortfall.

DISPOSITION OF SB 178

Motion: REP. COCCHIARELLA moved SB 178 BE CONCURRED IN.

Discussion: REP. DEBRUYCKER said that the employee's contribution is six percent. The state pays 13 percent. He asked if that isn't high. Lois Menzies said it isn't high when you consider that the employer is not contributing for social security,

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously. Rep. Spaeth will carry this bill on the House floor.

HEARING ON HJR 30

Presentation and Opening Statement by Sponsor: Rep. Robert Clark, House District 31, introduced the resolution. This resolution acknowledges the Legislature's support for the Great Montana Centennial Cattle Drive from Roundup to Billings beginning September 4, 1989, and ending September 9, 1989. Rep. Clark said that the cattle drive is being sponsored in part by the Latigo Corporation. Ten thousand cattle are to take part in the drive. He said, "They say that if they get 10,000 cattle for the drive, that the front part of the herd will be at the end of the day when the back part is just starting to move. They plan on working about ten miles a day. It should be a fun time for everybody involved."

Testifying Proponents and Who They Represent:

Carol Mosher, Montana Stockgrowers and the Montana Cattle Women

Leo Ellingson, Centennial Director

Proponent Testimony:

CAROL MOSHER, representing the Montana Stockgrowers and the Montana Cattle Women, said it gives her great pleasure to testify in support of this bill. She said we are looking forward to this, and many of our members are planning on putting cattle in the drive. Many of us are planning on

HOUSE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 5 of 10

taking our horses and being part of the drive. Our group is looking into feeding some of the crew some place along the line. We think it will be great fun. We urge your support of this resolution.

LEO ELLINGSON, the Centennial Director, said that the cattle drive has been sanctioned by the Montana Centennial Commission.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. ROTH asked if anyone has filed an environmental impact statement on this. Rep. Clark said he thinks that was considered, and he doesn't know what the outcome was.

REP. NELSON said that you want to keep in mind that the scenery only changes for the lead cow.

Closing by Sponsor: None

DISPOSITION OF HJR 30

Motion: REP. CAMPBELL moved HJR 30 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

HEARING ON SB 439

Presentation and Opening Statement by Sponsor: Sen. William Farrell, Senate District 31, Missoula, introduced the bill. This bill, requested by the Senate State Administration Committee, revises several provisions concerning the Montana Statehood Centennial Commission and Office. The bill revises the Centennial Office's rulemaking authority regarding endorsement of centennial projects. It also provides that proceeds from the sale of commemorative license plates after November 30, 1989, must be deposited in the general fund.

Sen. Farrell said that this bill applies to the Lieutenant Governor's Office. He said that about a year ago we started running into problems concerning authority to check people's record on the exclusivity of centennial projects. These are temporary rules. This bill was drafted by the former Lieutenant Governor and during the switch of administrations it got lost, and we have to bring it in a committee bill.

Testifying Proponents and Who They Represent:

Leo Ellingson, Centennial Office

Proponent Testimony:

LEO ELLINGSON, the Centennial Office Director, said that the bill is primarily a housekeeping one in order to provide for an audit, if we should find it necessary, of anyone who has been given a grant or a centennial endorsement including using the centennial logan, perhaps without authorization or if they misrepresent centennial products.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. WHALEN said that the bill states that you are not to use the centennial logo without authorization. He said that he picked up a roll of the centennial logos in the Governor's office, and that he has put them on all of his mail. He asked if that would be deemed as unauthorized use of the centennial logo. Sen. Farrell said that would not be unauthorized use of the logo as all of the state agencies and others are authorized to use the logo.

Closing by Sponsor: Rep. Farrell said that the problem that this bill is to correct came up a year ago. He said that he really doubts if they will have to use this very long. This bill will give temporary authority until December 31 of this year.

DISPOSITION OF SB 439

Motion: REP. DEBRUYCKER moved that SB 439 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously. Rep. Spring will carry this bill on the House floor.

HEARING ON SB 381

Presentation and Opening Statement by Sponsor: Sen. William Farrell, Senate District 31, Missoula, introduced the bill. This bill increases the attorneys' license tax from \$10 a year to \$25 a year. The bill is effective January 1, 1990, and applies to the license tax for years beginning after December 31, 1989.

Sen. Farrell said that originally this bill was in response to a bill that passed the Senate for pay increases for judges. He said that he set the fee at \$250, and the Senate amended it to \$25. Sen. Farrell said he is satisfied with this. Since 1910, the fee has been \$10 for an attorney to license in the state of Montana. That money goes into the general fund and is reverted to the supreme court to operate and process the license for an attorney. The \$25 will more than cover the cost, but the \$10 is less than what it costs for the license fee to be processed. He equated the \$10 fee to the \$5 speeding ticket as it costs more to process the fees than they are collecting for it.

Testifying as Neither a Proponent nor Opponent and Who They Represent:

Ed Smith, Clerk of the Supreme Court

Allen Chronister, State Bar of Montana

Proponent Testimony:

ED SMITH, Clerk of the Supreme Court, said he is here to provide information to the Committee. The attorney licensing tax was \$5 from 1917 until 1971. It was then increased to \$10. The \$10 rate has been in effect for about 28 years. A time cost analysis was made a few years back. It found that it costs in excess of \$13 an hour just to process the information. He said that he thinks the \$25 fee is a pretty fair figure. The Court also stated that they want to retain the fee because it allows them to control who is practicing in Montana.

ALLEN CHRONISTER, representing the state bar of Montana, said that we appreciate Sen. Farrell's statement in support of the \$25 level. He said that they understand the collection costs from the standpoint of the Clerk of the Supreme Court. He said we did oppose the bill in the Senate at \$250 for a number of reasons. As long as it stays at \$25, we will not oppose it.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. ROTH asked where all the money will go. Ed Smith said that the money goes into the general fund and does not revert to the Supreme Court. The Supreme Court is given their appropriation by the Legislature.

REP. WHALEN asked how much money the fee will raise at \$25. Sen. Farrell said that with 27,017 attorneys it will come to about \$40,000. REP. WHALEN said that a number of years ago the city of Billings tried to levy a license fee on a variety of professional people. The Yellowstone County bar

challenged that saying that the Supreme Court had the exclusive authority to license and regulate the law. He asked how fees imposed by state or county governments are meshed with the fees that must be paid to the state bar. Allen Chronister said since the new Montana Constitution, whenever the issue has made its way to the Supreme Court, the Court has held that under article VII, section 2, of the Montana Constitution, there is a reference to the Supreme Court's power to regulate the admission to practice by attorneys. The Supreme Court has construed that clause to give it the exclusive jurisdiction to the exclusion of any other body, including the Legislature, to impose preconditions upon the practice of law.

REP. DEBRUYCKER said that the fiscal note states that there is a ten percent delinquency on payment of the license fees. He asked what happens to that ten percent who fail to pay. Ed Smith said that if after three years they still have not paid, they would be stricken from the rolls and would have to institute proceedings with the court in order to practice.

REP. CAMPBELL asked how much revenue this bill would generate. Ed. Smith said that currently they are collecting approximately \$27,000 and it should go up to around \$40,000.

Closing by Sponsor: Sen. Farrell said that the purpose of the bill now is to take care of the expenses the state is already paying for out of the general fund.

DISPOSITION OF SB 381

Motion: REP. ROTH moved SB 381 BE CONCURRED IN. REP. CAMPBELL made a substitute motion that SB 381 BE NOT CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: The motion FAILED 1 - 15, with Rep. Campbell voting yes. REP. ROTH voted to reverse the vote. The motion FAILED as the vote was not unanimous.

Recommendation and Vote: A vote was taken on the original motion that SB 381 BE CONCURRED IN. The motion CARRIED 15 - 1, with Rep. Campbell voting no. Rep. Whalen will carry this bill on the House floor.

DISPOSITION OF SB 296

Hearing Date: March 10, 1989

Motion: REP. DEBRUYCKER moved SB 296 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: Lois Menzies distributed the amendments (Exhibit 3) and explained them. She said that the first three amendments were sponsor amendments. Amendments number 1 and number 3 and half of number 2 have already been adopted by the Committee.

REP. ROTH said he does not think that the meetings should be announced. The purpose of an inspection is to find out what is really going on. We all know that an announced inspection certainly has an effect on what they see. He said he would not support the removal of the announced portion.

LOIS MENZIES said that apparently there are two types of inspections: the announced inspection and the unannounced inspection. When "announced" is put in the bill in various places, it says that they must be handled jointly. When they are unannounced, there is no requirement that the agencies go in together to inspect a facility.

REP. COCCHIARELLA said that amendment No. 6 is the one that she had trouble with in the testimony. REP. COCCHIARELLA moved to segregate amendment No. 6 from Nos. 1 through 5.

The motion CARRIED 16 - 2, with Reps. Whalen and Campbell voting no.

REP. ROTH moved that amendments 1 - 5 be adopted. The motion CARRIED unanimously.

REP. ROTH moved amendment No. 6 for the sake of discussion. He asked why we have to mandate a joint agreement between the agencies. If agencies need such an agreement, they can enter into them, but they don't have to. If it makes it difficult for them to get the inspection completed, let's give them the option to enter into an agreement. If we force them into an agreement, it makes the procedure that much more difficult.

REP. ROTH said that this bill will have to go back to the Senate anyway, and they will get into a conference committee and get this worked out with those that know what is going on. Let's go ahead and vote on this and get it over with.

The motion on amendment No. 6 CARRIED 14 - 2, with REPS. GERVAIS AND COCCHIARELLA voting no.

Recommendation and Vote: REP. ROTH moved SB 296 BE CONCURRED IN AS AMENDED. The motion CARRIED with REP. DEBRUYCKER voting no.

HOUSE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 10 of 10

ADJOURNMENT

Adjournment At: 10:20 a.m.


REP. JAN BROWN, Chairman

JB/jb

6014.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date March 15, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.			✓
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore			✓
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that SENATE BILL 325 (third reading copy -- blue) be concurred in .

Signed: Jan Brown
Jan Brown, Chairman

[REP. RUSSELL WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that SENATE BILL 178 (third reading copy -- blue) be concurred in .

Signed: Jan Brown, Chairman

[REP. SPAETH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that HOUSE JOINT RESOLUTION 30 (first reading copy -- white) do pass .

Signed: Jan Brown
Jan Brown, Chairman

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that SENATE BILL 381 (third reading copy -- blue) be concurred in.

Signed: _____
Jan Brown, Chairman

[REP. WHALEN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that SENATE BILL 439 (third reading copy -- blue) be concurred in .

Signed: Jan Brown
Jan Brown, Chairman

[REP. SPRING WILL CARRY THIS BILL ON THE HOUSE FLOOR]



**Hendrickson, Miller
& Associates, Inc.**
ACTUARIAL CONSULTANTS

EXHIBIT 1

DATE 3-15-89

SB 178

1064

Securities Building • 101 N. Last Chance Gulch
P.O. Box 823 • Helena, Montana 59624
Telephone 406/442-5222

February 28, 1989

Lawrence Nachtsheim
Administrator
Public Employees' Retirement Division
1712 9th Avenue
Helena, MT 59620

Re: Senate Bill No. 178

Dear Larry:

At the request of the Firefighters' Unified Retirement System, I have reviewed Senate Bill No. 178. This bill provides cost-of-living adjustments for members employed after June 30, 1981 which are similar to adjustments available to members employed on or before June 30, 1981. The benefit increases will be paid out of the special fire insurance premium fund established for this purpose. In the event the assets of the fund are insufficient to provide full cost-of-living increases, the benefits will be decreased accordingly.

The actuarial cost of the benefit increases for members hired after June 30, 1973 are adequately funded under this bill. Because benefit increases cannot exceed the funds available, we have determined that this bill will require no additional contributions, and will have no actuarial impact upon the Firefighters' Unified Retirement System.

Sincerely,

Alton P. Hendrickson, ASA

rs

c: Vern Erickson

Ex #7
2 of 4

Information compiled from Butte Fire Department Relief Association
records on January 25, 1989:

PRE - 1973 RETIREE PENSION ANNUITIES : (Butte Fire Dept Relief Association)

Elsie Borry	\$35.00
Althoeda Boos	\$35.00
Ruth Gleason	\$35.00
Margaret Healy	\$35.00
Rossela Burke	\$99.50
Elizabeth Casey	\$81.50
Edith Dean	\$99.50
Mildred Harrington	\$98.50
Easter Murphy	\$90.50
P. J. O'Brien	\$87.50

STATE FARM INS. Helena
Bruce Hewitt office

\$50,000 INS Policy

\$35,000 Personal Property

\$100,000 Liab.

\$3,500 Jewelry

\$2,500 GUNS

ECT.

Per Year

COST. \$243⁰⁰

1½% \$3.65

1000 sqft.

15 yrs. old.

100.00 Dede.

FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM

Pre 7/1/73 Retirees

Hired Prior to 7/1/81
& retiring after 7/1/73

Hired 7/1/81 and After

Earliest
Retirement
Eligibility

Determined by prior plans

Age 50, 10 yrs. service

Age 50, 10 yrs. service

Retirement
Allowance

Determined by prior plans

50% of final compensation*
@ 20 yrs service & 1% of
final compensation for
each year in excess of 20
OR
2% of final compensation per
year of service up to 60%
of final compensation (if
member has not both reached
age 50 and 20 yrs of service
while in active duty)

2% of Final Average Salary**
per year of service, up
to a maximum of 60% FAS

Supplemental
Retirement
Allowance

No less than 1/2 the current
monthly salary paid to a
newly confirmed active
firefighter in the city
that last employed him
Same to disability retirees
and survivors

No less than 1/2 the monthly
compensation paid to a newly
confirmed active firefighter
of a city that last employed
him as a firefighter.
Same to disability retirees
and survivors

No minimum retirement
allowances are paid
Disability and survivorship
allowances may be no less than
1/2 the monthly compensation
paid to a newly confirmed
firefighter.

FUNDING

Prior plans & state special
revenue fund pays for
supplements

Prior plans' trust funds***
Employee contributions (6%)
Employer contributions (13.02%)
State contributions (22.98%)
(from gross premium taxes on
insurance risks enumerated in 19-11-512)

Employee contributions (6%)
Employer contributions (13.02%)
State contributions (22.98%)
(from gross premium taxes on
same as at left)

*Final Compensation = monthly salary last received by member
**Final Average Salary = Average of highest consecutive 36 months salary
***Prior plans' trust funds were grossly deficient and not able to pay benefits which had accrued at point in
time when assets were transferred to Unified System.

NOTE: Firefighters' are not eligible to be covered by Social Security.

EX. #1
4264

TIM BERLESTROM - REPRESENTING THE MT. ST. FIREMENS ASSOC. 1066
HANDOUT PAGE 1

SB 178 removes a sunset provision on a tax that has alleviated a problem in our retirement system which I'll address as my testimony develops.

② This funding mechanism was enacted in 1975 to provide a supplemental allowance to pre-1973 retirees.

③ As recently as 1973 there were monthly pension annuities amounting to only \$35 per month within our pension system.

HANDOUT →

Surviving spouses of deceased fire fighters were existing ~~was~~ far below poverty level, and without benefit of social security coverage.

If we do not remove this sunset provision we could very well place our future retirees in a similar situation.

④ The situation in Butte was typical of pensions paid to fire fighter retirees, and prompted our association to introduce legislation in the 1975 session that provided a supplement to the pensions of pre-1973 retirees, and current and future fire fighters.

* It was the intention of the legislature to solve this problem for those who were active ^{fire fighters} and those who were on retirement.

⑤ From this point, all pre-1973 retirees or their surviving spouse received a monthly pension annuity in the amount equal to $\frac{1}{2}$ of the monthly compensation of a newly confirmed fire fighter in the city in which they were previously employed.

- ⑥ Funding for this supplemental allowance was generated by assessing a $1\frac{1}{2}\%$ premium tax on all fire insurance policies sold in the state. (REFERENCE ST. FARM POLICY)
- ⑦ In 1981, the legislature consolidated all of the individual cities fire fighter retirement funds into one system — Known today as the Firefighters' Unified Retirement System.
- ⑧ All fire department members hired on or after July 1, 1981, were not afforded the supplemental allowance.
- ⑨ This bill seeks to provide the pension allowance adjustment to those members hired after the state's consolidation of the individual retirement funds.

(10) In 1981 the loss of this pension benefit created the same problem that existed until 1975.

This bill would keep this tax in place and generate a fund to insure that fire fighter pension benefits would not reach the poverty level like ~~the~~ those paid in 1973.

This is positive legislation intended to provide a solution to a reoccurring pension inequity currently in the system.

(11) A disparity in pension benefits came about with the creation of our unified pension system in 1981. (Page 4 of handout)

For Example:

Members hired prior to 1981:

MINIMUM OF 20 YEARS SERVICE PLUS MINIMUM OF AGE 50
(Pension based on $\frac{1}{2}$ of final monthly salary for life)
They have the supplemental allowance)

conversely,

Members hired after July 1, 1981:

MINIMUM OF 25 YEARS SERVICE PLUS MINIMUM OF AGE 50
(Pension based on $\frac{1}{2}$ of their last 3 years salary average)
They do not have the supplemental allowance!

(12) We have presented this proposal to the Public Employees' Retirement Division pension board and pension division actuary Allen Hendrickson. Mr. Hendrickson stated that there would be no fiscal impact — because of the "no money-no pay" concept. Here I'd like to draw the committee's attention to page 4, line 7: " " "

(13) There are many representatives of Montana's fire service in attendance at today's hearing. Hopefully we can answer any questions the committee might have.

WITNESS STATEMENT

NAME Tim BERGSTROM BILL NO. SB 178

ADDRESS 726 AVE. F BILLINGS, MT. 59102

WHOM DO YOU REPRESENT? MT. STATE FIREMENS ASSOC.

SUPPORT X OPPOSE _____ AMEND _____

COMMENTS: _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments to Senate Bill No. 296
Third Reading Copy

EXHIBIT 3
DATE 3-15-89
SB 296

For the House Committee on State Administration

Prepared by Lois Menzies
March 10, 1989

1. Page 1, line 16.
Strike: "licensing,"
Following: "review"
Strike: ", "

2. Page 1, line 19.
Strike: "licensing,"
Following: "review"
Strike: ", "
Strike: "ANNOUNCED"

3. Page 1, line 22.
Strike: "licensing,"
Following: "review"
Strike: ", "

4. Page 2, lines 22 and 23.
Strike: "," on line 22 through "," on line 23

5. Page 2, line 25.
Strike: "ANNOUNCED ON-SITE"

6. Page 3, line 8.
Strike: "MAY"
Insert: "shall"

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. SB 325

DATE March 15, 1989

SPONSOR SENATOR YELLOWTAIL

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Daniel Nelson	MT. Arts Council	X	
Cherie Hermanson	MT Cultural Adv	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER
STATE ADMINISTRATION COMMITTEE

BILL NO. SB 178 DATE March 15, 1989
SPONSOR SENATOR YELLOWTAIL

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Tim BERGSTROM	MT. STATE FIREMEN'S ASSOC.	X	
Michael Hunt	MSFA	X	
Richard Sedden	MSFA	X	
Edward Flies	MSCPFF	X	
Steve Anderson	GFFD	X	
DEAN RIGGIN	MSFA	X	
Richard E. Manning Senator	Senate Dist #18	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE ADMINISTRATION COMMITTEE

DATE March 15, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. SB 439

DATE March 15, 1989

SPONSOR SENATOR FARRELL

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DATE March 15, 1989

SENATOR FARRELL

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATUS SHEET

51st LEGISLATIVE SESSION

STATE ADMINISTRATION

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB 325	2-21-89	3-15-89	3-15-89					3-15-89			
SB 346	2-21-89	3-2-89	3-03-89							3-03-89	
SB 356	2-21-89	3-1-89	3-01-89					3-01-89			
SB 391	2-22-89	3-15-89	3-15-89					3-15-89			
SB 395	2-22-89	3-10-89	3-10-89							3-10-89	
SB 401	3-22-89	3-14-89	3-14-89					3-14-89			
SB 409	2-22-89	3-14-89	3-14-89					3-14-89			
SB 427	2-28-89	3-14-89	3-14-89							3-14-89	
SB 429	2-28-89	3-15-89	3-15-89					3-15-89			
SB 356	2-03-89	3-01-89	3-10-89							3-10-89	

Use a separate sheet for Senate Bills, House Bills, and Resolutions.